

VERBATIM**RECORD OF TRIAL²**

(and accompanying papers)

of

MANNING, Bradley E.

(Name: Last, First, Middle Initial)

[Redacted]PFC/E-3

(Rank)

Headquarters andHeadquarters Company,United States Army Garrison

(Unit/Command Name)

(Social Security Number)

U.S. Army

Fort Myer, VA 22211

(Branch of Service)

(Station or Ship)

By

GENERAL**COURT-MARTIAL**

Convened by

Commander

(Title of Convening Authority)

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

(Unit/Command of Convening Authority)

Tried at

Fort Meade, MD

on

see below

(Place or Places of Trial)

(Date or Dates of Trial)

Date or Dates of Trial:

23 February 2012, 15-16 March 2012, 24-26 April 2012, 6-8 June 2012, 25 June 2012,
 16-19 July 2012, 28-30 August 2012, 2 October 2012, 12 October 2012, 17-18 October 2012,
 7-8 November 2012, 27 November - 2 December 2012, 5-7 December 2012, 10-11 December 2012,
 8-9 January 2013, 16 January 2013, 26 February - 1 March 2013, 8 March 2013,
 10 April 2013, 7-8 May 2013, 21 May 2013, 3-5 June 2013, 10-12 June 2013, 17-18 June 2013,
 25-28 June 2013, 1-2 July 2013, 8-10 July 2013, 15 July 2013, 18-19 July 2013,
 25-26 July 2013, 28 July - 2 August 2013, 5-9 August 2013, 12-14 August 2013,
 16 August 2013, and 19-21 August 2013.

¹ Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)² See inside back cover for instructions as to preparation and arrangement.

1 Q. Did you -- when you wrote this, was that your goal
2 basically not to be reduced in rank?

3 A. The goal of the appeal, yes, was not to be reduced.

4 CDC[MR. COOMBS]: I'm showing you now Defense Bravo Bravo
5 Bravo for identification [handing the document to the witness]. Take
6 a look at that and let me know - first of all, take a look at that
7 and tell me if you know what it is.

8 [The witness did as directed.]

9 A. From what I recall this was an appeal of my GOMOR, I
10 believe.

11 Q. Okay. And when did you -- when was this submitted? What
12 was the date on this memorandum?

13 A. 29 April 2011, sir.

14 Q. And this one -- is this handwritten or typed?

15 A. It's typed, sir.

16 Q. And who wrote this for you or did you write it?

17 A. I don't -- I don't recall. Hold on. I don't think I wrote
18 it. But I don't recall.

19 Q. And can you turn to the third page for me.

20 [The witness did as directed.]

21 Q. Do you see a signature on that page?

22 A. Yes, sir.

23 Q. And whose signature is that?

1 A. It's mine, sir.

2 Q. And above that do you see a paragraph five that's indented?

3 A. Yes, sir.

4 Q. Can you read that paragraph?

5 ATC[CPT OVERGAARD]: Objection, Your Honor.

6 MJ: Sustained.

7 WIT: What does that mean?

8 MJ: That means don't read it.

9 CDC[MR. COOMBS]: Don't answer the question for a second.

10 WIT: Yes, ma'am. Sorry.

11 CDC[MR. COOMBS]: Your Honor, I am not offering it for the

12 hearsay purpose -- but -- so I guess before this ----

13 MJ: Well, I made her go through the foundations refreshing

14 recollections.

15 CDC[MR. COOMBS]: No, I'm not -- I'm offering it for a prior

16 inconsistent statement. So I'm not offering for a hearsay purpose.

17 I'm not trying to get it under prior recollection recorded. I'm

18 offering it as a prior inconsistent statement. It predates the

19 statement that the trial counsel solicited from the witness.

20 MJ: Why don't you have him read the paragraph and just ask him

21 questions about it?

22 CDC[MR. COOMBS]: Sure.

23

1 Questions continued by the civilian defense counsel [MR. COOMBS]:

2 Q. Could you go ahead and read that paragraph?

3 A. You want me to read it out loud?

4 MJ: No. You can just go ahead and read it to yourself.

5 [The witness did as directed.]

6 WIT: Okay, sir.

7 Q. All right. So reading that -- seeing that paragraph, did
8 you have a memory at that point of whether or not PFC Manning made
9 any statements that indicated a lack of loyalty to the United States
10 or to the United States flag?

11 A. Could you please rephrase?

12 Q. Right. After looking at that, did you have a memory at the
13 time of 29 April 2011, that indicated whether or not you knew that
14 PFC Manning made any statements that indicated a lack of loyalty to
15 the United States or to the United States flag?

16 A. No.

17 Q. Do you believe at that point that PFC Manning had made such
18 a statement?

19 A. It says I don't recall.

20 Q. I'm asking from your standpoint, did you believe at that
21 point?

22 A. I did not believe at that point.

23

1 Q. Okay. And, again, at the time of this was done, this was a
2 memorandum that -- was this a memorandum that you submitted?

3 A. I mean, I signed it. From what I recall there was a JAG
4 officer who represented me and assisted me with its composition, and
5 from what I recall that it was submitted through SJA channels. So I
6 don't think that I submitted it myself. I don't think I did, sir.

7 Q. And before you signed this document, do you read documents
8 before you sign them?

9 A. Yes, sir.

10 Q. And did -- and this document, the fact that you signed it,
11 did that indicate to you whether or not you believed at the time
12 those statements were truthful or not?

13 A. Could you please rephrase?

14 Q. Yes. At the time that you signed this statement, the fact
15 that you did, would that indicate to you whether or not you believed
16 those statements were true at the time?

17 A. Yes, sir.

18 Q. And how so?

19 A. Because I signed it, sir.

20 Q. And at the time, I guess -- right now you're saying you
21 don't remember, but at the time you signed it, was your -- obviously
22 your memory of whether or not they were truthful statements accurate
23 in your mind?

1 A. In -- in my mind what I said in here was truthful at that
2 time.

3 CDC[MR. COOMBS]: Okay. So -- now I'm retrieving Defense
4 Exhibit Bravo Bravo for identification from you [retrieving the
5 document from the witness].

6 Q. So Defense Exhibit Bravo Bravo is 29 April 2011, and
7 Prosecution Exhibit 197 is 22 June 2011. Do you know if your memory
8 gets better or worse in time or does it change?

9 A. I don't know if it fluctuates. I haven't -- I'm still
10 going through the evaluation process, but I would say there -- there
11 is fluctuation in my memory that might or might not be related to
12 time. So I can't -- I'm not a 100 percent sure, you know, at this
13 time, sir.

14 CDC[MR. COOMBS]: Okay. Thank you.

15 ATC[CPT OVERGAARD]: No further questions, Your Honor.

16 MJ: All right. Temporary or permanent excusal?

17 CDC[MR. COOMBS]: Temporary, Your Honor.

18 **[The witness was temporarily excused, duly warned, and withdrew from**
19 **the courtroom.]**

20 CDC[MR. COOMBS]: Ma'am, if we could have a 10-minute comfort
21 break and then we have one more witness, which I still believe the
22 government has an issue on. I don't know if we've had a ruling on
23 it.

1 MJ: Who is it?

2 CDC[MR. COOMBS]: This is Chief Ehresman.

3 MJ: Now you all were talking about SIGACTs, and, for the
4 record, counsel and I had a brief R.C.M. 802 conference this morning
5 where this was raised on two different SIGACTs. I basically told the
6 parties I had no idea what they were talking about. So let's put
7 this on the record.

8 CDC[MR. COOMBS]: Yes, Your Honor. The government in their
9 representation of rebuttal for bringing in Special Agent Shaver, one
10 of the purposes was to lay the foundation for a SIGACT. They believe
11 that that rebutted the testimony of Mr. Madaras on a particular
12 incident that ----

13 MJ: Mr. Madaras or Sergeant Sadtler.

14 CDC[MR. COOMBS]: ---- Sadtler, I'm sorry. Sergeant Sadtler,
15 now Mr. Sadtler, I think, on a particular instance of PFC Manning
16 talking to him regarding something that he was concerned about. The
17 government indicated that they were rebutting -- offering that
18 information in to rebut that there was an incident in December that
19 troubled PFC Manning. And, in fact, the incident occurred much
20 later. Again, maybe to argue that any sort of concern about this
21 incident did not prompt or suggest his motive to release certain
22 information. The defense offered what is, I believe, Defense Exhibit
23 Echo, a SIGACT that's been admitted into evidence, that is a SIGACT

1 from the December timeframe. Mr. Ehresman will come in and -- and
2 talk about that issue -- the fact that that was something that was
3 discussed within the S-2 section -- that incident. So to the extent
4 that the government is, in their rebuttal, trying to suggest there
5 was nothing that caused PFC Manning concern in December and, in fact,
6 because of the SIGACT, it was something in the March/April timeframe.
7 This is what is rebutting that fact.

8 MJ: So you called in Mr. Sadtler to say that there was
9 something troubling PFC Manning in December. The government -- and
10 based on your Defense Exhibit Echo?

11 CDC[MR. COOMBS]: Yeah -- no. He came in to testify about a
12 particular incident. And that incident -- he could not recall. If
13 you remember his memory was not that good because of the passage of
14 time of when this occurred.

15 MJ: Did you show him the SIGACT?

16 CDC[MR. COOMBS]: Did not, ma'am, no. It was based solely
17 upon the incident. So he testified about an incident where PFC
18 Manning was upset about certain individuals being arrested for
19 printing anti -- what was alleged at that time, anti-Iraqi
20 literature. And -- and he talked about how PFC Manning was upset by
21 that.

22 MJ: Is that SIGACT that you talked about or introduced as a
23 defense exhibit, is that the SIGACT that you're talking about that

1 triggered or that was -- that documented this event?

2 CDC[MR. COOMBS]: No, ma'am. So -- and -- here's how it plays
3 out. We've got him coming in ----

4 MJ: Who?

5 CDC[MR. COOMBS]: The witness, Mr. Sadtler, coming in to talk
6 about an event. He testified that that event occurred in December
7 timeframe. And -- and he couldn't remember if it's December --
8 before or after Christmas. He thought it was right around the
9 timeframe. The government then, in rebuttal, said we want to bring
10 in Special Agent Shaver to talk about that instance. We have the
11 SIGACT. And we found that SIGACT. It was on PFC Manning's computer.
12 And we want to offer that to show that there was -- rebut his
13 testimony that happened in December, and it shows that nothing
14 happened in December, that this happened in March. In other words,
15 then to argue that anything he might have been upset about was only
16 in March. And he'd already disclosed stuff, so that could not have
17 formed his decision. So what we are trying to do know is offer the
18 SIGACT -- well, we have offered the SIGACT in December, but offer the
19 testimony of Chief Ehresman to say that that was an issue -- the
20 December SIGACT separate from what Mr. Sadtler testified about, was
21 an issue that was a topic of discussion in the S-2 section. So that
22 if the government gets up in their closing and says, you know what,
23 he was -- there's nothing happening in December that he was concerned

1 about, it was in March after he already made the decision to release
2 stuff. So, you know, that's, you know, his motive or whatnot is not
3 legitimate or not pure.

4 MJ: So the SIGACT you're talking about that's already been
5 admitted into evidence is the one that you're referencing that
6 happened in December?

7 CDC[MR. COOMBS]: Yes, Your Honor.

8 MJ: And the other one is later on. Can I see both of the
9 SIGACTs? Which ones are we talking about? One's classified.

10 CDC[MR. COOMBS]: Defense Exhibit Echo and ----

11 MJ: These are both classified.

12 CDC[MR. COOMBS]: ---- yeah, I believe they're both
13 classified. I you could have them pulled maybe -- already.

14 [Pause]

15 [The documents were provided to the Military Judge.]

16 MJ: Okay.

17 CDC[MR. COOMBS]: So Chief Ehresman would come in roughly
18 around five questions to talk about the fact that he was aware of the
19 instance and it was discussed in the S-2 section.

20 MJ: Why is -- what's the government's objection?

21 TC[MAJ FEIN]: Ma'am, the government's objection is -- is that
22 this is not relaying how things actually occurred procedural. We're
23 in surrebuttal. What actually happened, Your Honor, is the defense

1 admitted with Special Agent Shaver Defense Exhibit Echo; a SIGACT.
2 No witness. Not a single witness the defense presented testified
3 about that SIGACT other than Special Agent Shaver who pulled it. The
4 defense then offered Sadtler as a witness on their case, who
5 testified about an event that the question was something to the
6 effect of do you recall an incident where Manning brought to you --
7 concerned about Iraqis being arrested by Iraqi police? And he said,
8 I do remember that. And then the dialogue was what Sadtler
9 remembered. Now the government offered a SIGACT of that exact event
10 found on PFC Manning's in rebuttal to Sadtler's testimony. What the
11 defense wants now to do is introduce new evidence unrelated to
12 Sadtler's testimony in order to somehow talk about what they admitted
13 in their case in chief, but didn't have anyone else testify about.
14 This is completely new evidence, and it's not rebutting anything that
15 the government has presented in rebuttal. It is the -- again -- we
16 presented a SIGACT that explained what Sergeant Sadtler was --
17 testified about. It was an event dealing with the Moroccans is what
18 he said on the record, and he didn't remember the time. So now we've
19 provided proof of what that time was. And that was with the evidence
20 that was presented. So the government objects that this is
21 completely outside the scope of rebuttal, and it's just a -- a way to
22 get additional evidence in; and it's new evidence.
23 MJ: Well, what if -- what would the -- what would the

1 government's position be if the defense asked me to reopen their
2 case?

3 TC[MAJ FEIN]: Well, ma'am, if that happens, then -- I think the
4 outcome there would be the same outcome here, Your Honor, if it's new
5 evidence then the government should at least have the opportunity,
6 unfortunately, 'cause -- trying to move this on to examine that to
7 figure out if we have additional rebuttal with it -- in opening -- so
8 it would be the same effect as if the Court was to order the -- or
9 allow the case to be reopened or allow this new additional evidence
10 in their surrebuttal, then we would ask for some time, even if it's
11 after this session, to look at that and see if there's additional
12 rebuttal evidence.

13 MJ: All right.

14 TC[MAJ FEIN]: And we don't mind -- Your Honor, our -- the
15 government's contention that is this is completely new evidence, it's
16 not related at all to the rebuttal case. The defense had their
17 opportunity, just like the government had their opportunity with the
18 Apache e-mail from yesterday and everything else, in order to bring
19 that evidence in. This is surrebuttal based off of rebuttal.

20 MJ: Defense?

21 CDC[MR. COOMBS]: Your Honor, I -- I -- I find it interesting
22 that, to say the least, that Major Fein would take that position
23 given yesterday we spent four hours on Wget, which was four hours of

1 Wget to rebut apparently one small fact of Chief Ehresman's
2 testimony. And essentially what the government did was go into a
3 whole new area that was not even raised on our defense case. And
4 when we objected saying it's not proper rebuttal, the Court did one
5 of two things. The Court said, well, I think it's an issue and I
6 have my own independent fact-finding power, so I'm going to bring it
7 in under -- under that provision, or you thought it was proper
8 rebuttal.

9 MJ: Well, before we even get there, whether it's proper
10 rebuttal or not, I'm going to allow it. You can either reopen your
11 case under R.C.M. 913(c)(5). So you can present the evidence.

12 CDC[MR. COOMBS]: All right. Your Honor, if we take a brief
13 comfort break then Chief Ehresman will have roughly five questions.

14 MJ: All right. Is ten minutes sufficient?

15 CDC[MR. COOMBS]: Yes, Your Honor.

16 TC[MAJ FEIN]: Yes, ma'am.

17 MJ: The Court is in recess.

18 **[The court-martial recessed at 1525, 19 July 2013.]**

19 **[The court-martial was called to order at 1539, 19 July 2013.]**

20 MJ: The Court is called to order. Let the record reflect all
21 parties present when the Court last recessed are again present in
22 court. Mr. Coombs, you ready to call your witness?

23

1 CDC [MR. COOMBS]: Yes, Your Honor. The defense calls CW2
2 Joshua Ehresman back to the stand.

3 CHIEF WARRANT OFFICER TWO JOSHUA EHRESMAN, U.S. Army, was recalled as
4 a witness for the defense, was reminded of his previous oath, and
5 testified as follows:

DIRECT EXAMINATION

7 Questions by the civilian defense counsel [MR. COOMBS]:

8 Q. I want to ask you about a SIGACT that occurred in December
9 of 2009, okay?

10 A. Okay, sir.

11 Q. Do you recall a SIGACT that involved an EFP happening on
12 Christmas Eve of 2009?

13 A. Yes, sir.

14 Q And what do you recall?

15 A. I recall either a convoy -- a U.S. convoy slowing down or
16 stopping, and POV passing them up and hitting either an IED or EFP.

17 Q. And were Soldiers in the S-2 section talking about that EFP
18 incident?

19 A Yes sir

20 CDC [MR COOMBS]: Thank you.

31 M.T. Grossi

22 ATC [CBT OVERGAARD]: Yes ma'am

CROSS-EXAMINATION

2 Questions by the assistant trial counsel [CPT OVERGAARD]:

3 Q. Do you remember if there was any reaction in the unit at
4 the time?

5 A. Just the typical reaction, ma'am.

6 Q. And what's a typical reaction?

7 A. Going through what -- pros and cons -- what helped America,
8 what didn't help it? How can we prevent this from happening in our
9 AO.

10 Q. This was no cheering?

A. Not that I remember.

12 Q. Or no celebrating?

13 A. No, ma'am.

14 Q. Do you know if PFC Manning was there?

15 A. I'm not sure, ma'am.

16 ATC [CPT OVERGAARD]: Thank you.

BEDIRECT EXAMINATION

18 Questions by the civilian defense counsel [MR. COOMBS]:

19 Q. Were you present at the time of the incident?

20 A. I was in the office when the first message came across,
21 sir.

22 M.J.: What incident?

23 CDC [MR. COOMBS]: The EFP incident -- the SIGACT.

1 MJ: Present at the scene?

2 CDC[MR. COOMBS]: I'm sorry. Let me clarify.

3 Q. Were you present in the S-2 section at the time that the
4 EFP incident occurred?

5 A. Yes, sir.

6 Q. And what time was that?

7 A. I don't remember if it was day or night. I was just in
8 there, sir.

9 Q. Do you know if then Specialist Manning was present?

10 A. I do not, sir.

11 Q. When you say do you not know, is that you don't remember or
12 you don't believe he was?

13 A. I don't remember who was in there, sir.

14 Q. And what do you recall about the POV, if anything -- what
15 happened to it?

16 A. Just -- just that it got hit, sir. I don't remember any
17 details about it.

18 Q. And you were asked about cheering. Do you recall whether
19 or not EFP instances were, with regards to the brigade, were, I
20 guess, important issues?

21 A. Very important, sir.

22 ATC[CPT OVERGAARD]: Objection. Leading.

23 MJ: Well -- go ahead. Overruled.

1 Q. And why are they important?

2 A. Because those are one of the high priority things that
3 happen in our AO along on IAD, DBIDs, any of those things were the --
4 the big things that happened that we wanted to try to prevent.

5 Q. And during -- were EFPs and IEDs something that caused a
6 lot of problems with American Soldiers?

7 A. Yes, sir.

8 Q. And how so?

9 A. Because they're the ones that were taking out the most
10 casualties at that the time, sir.

11 Q. Do you recall if when information was brought out that this
12 EFP did not result in any American deaths or injuries, whether or not
13 individuals celebrated that?

14 A. No, sir.

15 Q. And when you say you don't recall, are you saying that
16 didn't happen or you don't recall that happened -- or you don't
17 remember if that happened?

18 A. I don't remember that happening, sir.

19 CDC[MR. COOMBS]: Thank you.

20 MJ: Temporary or permanent excusal?

21 ATC[CPT OVERGAARD]: One final question, ma'am.

22 MJ: Go ahead.

23 ATC[CPT OVERGAARD]: All right. One moment, please.

1

RECROSS-EXAMINATION

2 Questions by the assistant trial counsel [CPT OVERGAARD]:

3 Q. When you said you didn't recall, you didn't recall what?

4 A. As far as that last question, ma'am?

5 Q. Yes.

6 A. I don't recall any -- I don't remember specifics of any of
7 it, ma'am. I don't remember who was in there. I don't remember the
8 time. I don't remember the results. I just remember the actual
9 event happening because it was one -- one of the only ones that
10 happened like that.

11 Q. And would you remember if they were celebrating after an
12 event like this?

13 A. I think would it stand out in my mind, ma'am. Yes, ma'am.

14 Q. Do you remember there being celebrating?

15 A. I do not, ma'am.

16 ATC[CPT OVERGAARD]: Thank you.

17 REDIRECT EXAMINATION

18 Questions by the civilian defense counsel [MR. COOMBS]:

19 Q. You were in the TOC at the time?

20 A. No, sir.

21 Q. Where were you at?

22 A. I was in the SCIF, sir.

23

1 Q. So you don't know about any celebration, if any, in the
2 TCO?

3 A. I was not there, so I couldn't tell you, sir.

4 CDC[MR. COOMBS]: Thank you. No further questions.

5 MJ: Temporary or permanent excusal?

6 CDC[MR. COOMBS]: Temporary, Your Honor.

7 **[The witness was temporarily excused, duly warned, and withdrew from**
8 **the courtroom.]**

9 MJ: Yes [speaking to the defense]?

10 CDC[MR. COOMBS]: Your Honor, the defense rests. And then
11 under R.C.M 913(c)(5), because we reopened our case and rested ----

12 MJ: Yes.

13 CDC[MR. COOMBS]: ---- we would ask the Court to again ask PFC
14 Manning about his decision not to testify.

15 MJ: All right. PFC Manning, we have reopened your case. You
16 did not testify. The defense rested. Is that your decision?

17 ACC: Yes, Your Honor.

18 MJ: All right. Thank you. Government, once again, I allowed
19 them to reopen the case. Do you have any additional rebuttal?

20 TC[MAJ FEIN]: Ma'am, the United States would ask for some time
21 to just review our notes and get back to the Court today and make
22 that decision?

23 MJ: All right.

1 TC[MAJ FEIN]: And then also would ask for an 802 just to talk
2 about the scheduling and timing as well.

3 MJ: Well, that's what I was just going to suggest. What I'd
4 like to do is allow you some time to discuss if you have anything
5 else to present. We need to have an 802 to discuss scheduling. We
6 had initially made the closing arguments on Tuesday, and I don't
7 think that's going to happen. So we will come back on the public
8 record once again once we finalized all of these things. How long of
9 a recess would you like?

10 TC[MAJ FEIN]: Ma'am, can we come back on the record at -- at
11 probably 1730, and then that will allow enough time to talk the 802
12 and for the government to review its notes. And if it's earlier, we
13 can announce that -- unless you'd rather go earlier and we ask for
14 more time.

15 MJ: 1730; you need that much time?

16 TC[MAJ FEIN]: Well, ma'am, it's reviewing all of the different
17 witnesses for the -- I understand it's only two questions, but --
18 ma'am, then can we do 1620, and if we need more time we'll ask.

19 MJ: Let's do that.

20 TC[MAJ FEIN]: Yes, ma'am.

21 MJ: All right. Court is in recess until 1630.

22 [The court-martial recessed at 1546, 19 July 2013.]

23 [The court-martial was called to order at 1702, 19 July 2013.]

1 MJ: The court is called to order. Let the record reflect all
2 parties are present when the Court last recessed are again present in
3 the court. Major Fein, what is the government's position with
4 respect to additional rebuttal?

5 TC[MAJ FEIN]: Your Honor, the United States does not request
6 any additional rebuttal.

7 MJ: All right. During the recess I was handed -- handed
8 Appellate Exhibit 612, which is a prosecution notification to the
9 Court on global address list evidence. Defense, have you had an
10 opportunity to see that?

11 CDC[MR. COOMBS]: Yes, Your Honor.

12 MJ: Okay, does either side have additional argument to make
13 with respect to this?

14 CDC[MR. COOMBS]: The defense would just ask the Court to --
15 as you read through this, there's several sections where the trial
16 counsel makes a conclusion. I understand this is their argument to
17 you as how they prove their case, but the conclusions aren't
18 supported by the evidence. So when the Court looks at it, if you
19 would, especially when they say that 25-2 prohibits the act of
20 downloading e-mail addresses onto a personal computer, that is a
21 conclusion by the drafter of this document. That's not -- that's
22 actually not supported by the witnesses' testimony who testified.

23 Additionally, the person indicates that there would be no

1 reason to do this, and that PFC Manning could not have sent e-mails
2 from his personal computer; also facts that are contradicted by the
3 evidence. So the as the Court reads through the conclusions, if you
4 would verify it with the actual evidence that was elicited.

5 MJ: All right. I will do that. Now, government, let me ask
6 you, what's your position with -- what is an "exfiltration of a GAL"?

7 TC[MAJ FEIN]: Ma'am, the exfiltration of a GAL is the unlawful
8 taking of the GAL.

9 MJ: That's what an exfiltration is?

10 TC[MAJ FEIN]: That's our use on the word, yes, ma'am. It's
11 derived from actual evidence. That's the reason we used the word.

12 MJ: All right. The Court will take that under advisement when
13 it goes through its ruling on all of the 641 issues.

14 The parties and I met in an R.C.M. 802 conference and have
15 worked out a schedule for the next couple of weeks. Before I get to
16 that, I do want to announce on the record that there were -- there
17 had been some cell phone violations in the Media Operations Center.
18 So there will be some additional security measures in place to ensure
19 that there are no cell phones in the future in the Media Operations
20 Center. And I advise the public once again, cell phones are not
21 allowed in the courtroom or in the Media Operations Center.

22 Now for the schedule; the closing arguments will begin
23 Thursday the 25th of July at 0930. I'll announce my ruling on the

1 641 issues prior to closing arguments, and then we'll go into closing
2 argument. Following closing argument by counsel, the Court will
3 close the court to deliberate. Over the next several days the Court
4 will open and close the court for deliberations. What -- how that
5 works is, we come into court, we open the court, we close the court,
6 it takes about two minutes. I'll deliberate. At some point during
7 the day I can take a recess, we come back into court and just open
8 the court and close the court again, and then just go back in and do
9 the same thing for as long as it takes.

10 We have sentencing tentatively scheduled to start on the
11 31st -- that's Wednesday -- Wednesday the 31st July at 0930. And I
12 say tentatively because that depends on the status of deliberations.
13 If the Court needs further time to deliberate, the Court will take
14 further time to deliberate. And there will definitely be sentencing
15 in this case because of PFC Manning's pleas. Is there anything that
16 the Court has failed to address?

17 CDC[MR. COOMBS]: No, Your Honor.

18 TC[MAJ FEIN]: Your Honor, may we have a moment.

19 MJ: Yes.

20 [Pause]

21 TC[MAJ FEIN]: No, ma'am.

22 MJ: All right. Is there anything else we need to address
23 before we recess the Court until Thursday the 25th of July?

1 CDC[MR. COOMBS]: No, Your Honor.

2 TC[MAJ FEIN]: No, Your Honor.

3 MJ: All right. Court is in recess.

4 [The court-martial recessed at 1707, 19 July 2013.]

5 [END OF PAGE]

1 [The court-martial was called to order at 0946, 25 July 2013.]

2 MJ: Court is called to order. Major Fein, please account for
3 the parties.

4 TC[MAJ FEIN]: Your Honor, all parties present when the Court
5 last recessed are again present. Captain Morrow is present and
6 Captain Whyte is absent. Additionally, Your Honor, as of 9:20 this
7 morning there are 54 members of the media at the media operation
8 center, one stenographer, 8 members of the media in the courtroom in
9 the panel box, 35 spectators in the courtroom and 14 spectators in
10 the overflow trailer. Also, the alternate site other than the chapel
11 is available, if needed, but because the overflow trailer is not at
12 maximum capacity, it's not being currently used.

13 MJ: All right. Thank you.

14 TC[MAJ FEIN]: Also, I'm sorry, Your Honor, the court reporter
15 has changed. Mr. Robertshaw is absent. Mr. Chavez is present.

16 MJ: All right. Have we had any additional exhibits filed with
17 the court reporter?

18 TC[MAJ FEIN]: Yes, Your Honor. Your Honor, Appellate Exhibit
19 614, dated July 24th, 2013, is a defense motion for reconsideration
20 and for mistrial for Specification 4, 6, 8, 12 and 16 of Charge II,
21 18 U.S.C. 641 offenses. Appellate Exhibit 615, dated 25 July 2013,
22 is a Government accounting of expert witness for presentencing.
23 Appellate Exhibit 616, dated 25 July 2013, is the Government's

1 schedule of witnesses for presentencing phase. And also, Your Honor,
2 Appellate Exhibit 617 is a Government's classified supplement for
3 closing argument.

4 MJ: What was 616 again?

5 TC[MAJ FEIN]: Your Honor, United States schedule or proposed
6 schedule for sentencing witnesses.

7 MJ: Mr. Coombs.

8 CDC[MR. COOMBS]: Yes, Ma'am. With regards to Appellate
9 Exhibit 614, our motion, the defense would request ability to publish
10 that motion today on its website. I believe in accordance with the
11 Court's requirements the motion can be published. I know the
12 Government has a process which anytime there is an appellate exhibit,
13 it ultimately gets put on the FOIA reading room. However, I would
14 like to have the motion posted today.

15 MJ: Government, any objection?

16 TC[MAJ FEIN]: Your Honor, so long as the Court's order is being
17 followed, no objection.

18 MJ: All right. That's fine, Mr. Coombs.

19 CDC[MR. COOMBS]: Thank you.

20 MJ: All right. The Court, once again, is prepared to rule on
21 the Defense motions for Finding of Not Guilty under Rules of Court
22 Martial 917. The Court ruled on this yesterday actually and gave the
23 parties an advanced copy of the ruling so they would be prepared, in

1 closing argument today. Last night, Mr. Coombs sent by email a copy
2 of the Request for Reconsideration that he has filed. And before I
3 read the ruling, counsel and I met briefly in an R.C.M. 802
4 conference before we came on the record today. Once again, that is a
5 conference where the parties and Court discuss logistics and
6 scheduling and other issues that might arise in cases. The
7 Government will file a response to that motion by tomorrow evening.
8 And over the weekend Mr. Coombs will advise the Court on whether or
9 not the defense requests oral argument on that motion. And we have
10 not scheduled oral argument for it yet -- actually, we will. If we
11 have oral argument on that motion, it will be Monday morning at 0930.

12 This ruling supplements the Court's 18 July 2013, ruling and
13 addresses the defense motions under R.C.M. 917 for findings of not
14 guilty for Specifications 4, 6, 8, 12, and 16 of Charge II; Stealing,
15 Purloining or Knowingly converting records or things of value
16 belonging to the United States in violation of 18 United States Code
17 Section 641 and Article 134, UCMJ. I will be using the term
18 "stealing, purloining, or knowingly converting" a lot in this ruling
19 so we will be referring to them as SPKC.

20 Defense Position: The defense moves this Court to enter a
21 finding of not guilty in accordance with R.C.M. 917, because:

22 One, in each of the specifications, 4, 6, 8, 12, and 16,
23 the government charged the accused with SPKC, the actual databases

1 themselves and did not allege in the Charge that the accused SPKC the
2 records in the database or a copy of the records in the database or
3 the information in the records. This is a fatal variance between
4 what is charged and the evidence presented.

5 Two, even if properly charged intangible property such as
6 information is not within the scope of 18 United States Code Section
7 641.

8 Three, the government has not proved substantial or serious
9 interference with the government's use and benefit of the charged
10 databases. The databases' records and information remain available
11 for the government's use without change after the alleged SPKC by the
12 accused.

13 Four, the Government has failed to adduce any value of
14 copies or information. Should the Court find that Specifications 4,
15 6, 8, 12, and 16 properly charge SPKC of records, copies of records,
16 or information, the Government has failed to adduce evidence of the
17 value of the records, copies, or the information contained therein.

18 Five, for Specification 16 of Charge II, the Defense
19 further alleges that the Government has failed to present evidence
20 that the .mil addresses found on the accused's personal Macintosh
21 (MAC) computer were the U.S. Forces-Iraq Microsoft Outlook/SharePoint
22 Exchange Server global address list (USF-I GAL). The Defense further
23 alleges that even if the accused downloaded a GAL, the Government has

1 failed to introduce evidence that he acted "with intent to deprive
2 the government of the use and benefit of the records" and the
3 accused's conduct was wrongful, or that the accused's conversion of
4 the GAL caused serious or substantial interference with the
5 Government's ownership rights as the GAL was available for use with
6 no change after the accused allegedly converted it.

7 Government Position: The Government opposes the Defense
8 motion arguing that:

9 One, Specifications 4, 6, 8, 12, and 16 of Charge II each
10 identify the records in the relevant database that the accused is
11 charged with SPKC. Information is inherent within the definition of
12 record and database. Thus, there is no fatal variance between
13 pleading and proof.

14 Two, the contents and information contained in Government
15 records determine the criminality of the SPKC of the records more
16 than the form of the records.

17 Three, for conversion purposes, the deprivation of the
18 Government's right to protect the contents of confidential classified
19 information can be a misuse that seriously and substantially
20 interferes with the Government's property rights.

21 Four, the Government provided evidence of value in excess
22 of \$1000.00 for Specifications 4, 6, 8, 12, and 16 through the
23 testimony of Mr. Lewis, by evidence of the cost of creating the

1 records at issue, and the costs of creating and maintaining the
2 databases at issue via the database management systems,
3 infrastructure, and software. The cost of the database management
4 infrastructure is appropriate evidence of value because without it,
5 the records would not exist and could not be downloaded.

6 Five, with respect to Specification 16 of Charge II, the
7 Government argues that evidence presented by the Government that the
8 accused created a tasker to "exfiltrate" the GAL after receiving a 7
9 May 2010 Tweet from WikiLeaks seeking .mil addresses, that the
10 accused extracted the 74,000 addresses from the USF-I GAL and placed
11 the extracted information on his personal MAC computer, together with
12 evidence of his history of downloading classified government records
13 and information, transferring it to personal digital media, and
14 sending the records and information to WikiLeaks and testimony from
15 CW4 Nixon that the USF-I GAL contains names and email addresses
16 connected to the "Iraq.centcom.mil" domain establish that the 74,000
17 email addresses came from the USF-I GAL pool and that the GAL
18 contains usernames, domains, alias addresses, certificates, unit, and
19 phone numbers and reveals unit organizations structure, information
20 defined as "sensitive" per Army Regulations 25-2 and 530-1
21 establishes that the accused SPKC the USF-I GAL from the possession
22 of the United States with intent to deprive the United States of the
23 stolen property and that his conduct was wrongful.

1 Six, in Part B (1 through 5) of its brief (Appellate
2 Exhibit 599), the Government identified the evidence admitted to
3 prove each of the elements for Specifications 4, 6, 8, 12, and 16 of
4 Charge II. The Court has reviewed all of the testimony and examined
5 the evidence set forth by the Government for each specification as
6 well as the briefs and oral argument presented by the parties.

7 Oral Argument: On 18 July 2013, the Court heard oral
8 argument on this motion and received Appellate Exhibit 610, a
9 Property Value of Property Chart from the Defense. On 19 July 2013,
10 the Court received Prosecution Notification to the Court: GAL
11 Evidence (Appellate Exhibit 612). On 20 July 2013, the Court held
12 additional oral argument. During this oral argument, the Government
13 conceded that the evidence for Specifications 4 and 6 of Charge II
14 shows that the CIDNE-I and A SIGACTs the accused is charged with SPKC
15 comprised approximately 25 percent of the CIDNE-I and A databases.
16 The Government also advised that for Specification 16 of Charge II,
17 the Government was going forward with only -- only with the 74,000
18 addresses allegedly downloaded by the accused and not that the
19 accused SPKC the email addresses of all 160,000 users on the USF-I
20 GAL. The Government moved to amend Specifications 4, 6, and 16 of
21 Charge II to except "to wit:" and substitute "to WIT:: a portion of"
22 for each specification. The Government further moved the Court to
23 allow evidence of a pro rata share of the database management costs

1 for each specification. The Defense opposed the amendments as major
2 changes under R.C.M. 603(d) and moved the Court for an opportunity to
3 cross-examine evaluation witnesses with respect to pro rata share --
4 because the defense had no opportunity to cross-examine the valuation
5 witnesses with respect to pro rata share. The Defense argues a
6 mistrial is manifestly necessary in the interest of justice because
7 the Government's action to amend Specifications 4, 6, and 16 of
8 Charge II after presentation of the evidence on the merits casts
9 substantial doubt over the fairness of the proceedings.

10 Findings of Fact:

11 One, Specifications 4, 6, 8, 12, and 16 of Charge II all
12 have the same charging structure: In that Private First Class
13 Bradley E. Manning, U.S. Army, did, at or near Contingency Operating
14 Station Hammer, Iraq, between on or about, applicable dates, steal,
15 purloin, or knowingly convert to his use or the use of another, a
16 record or thing of value of the United States or of a department or
17 agency thereof, to wit: Specification 4: the Combined Information
18 Data Network Exchange Iraq database containing more than 380,000
19 records; Specification 6: the Combined Information Network Exchange
20 Afghanistan database containing more than 90,000 records;
21 Specification 8: a United States Southern Command database
22 containing more than 700 records; Specification 12: the Department
23 of State Net-Centric Diplomacy database containing more than 250,000

1 records; Specification 16: the United States Forces-Iraq Microsoft
2 Outlook/SharePoint Exchange Server global address list; of a value of
3 more than \$1,000, in violation of 18 U.S. Code Section 641, such
4 conduct being prejudicial to good order and discipline in the armed
5 forces and being of a nature to bring discredit upon the armed
6 forces.

7 Two, relevant instructions the Court will give for the 18
8 U.S.C. Section 641 offenses are: To "steal" means to wrongfully take
9 money or property belonging to the United States government with the
10 intent to deprive the owner of the use and benefit temporarily or
11 permanently. "Wrongful" means without legal justification or excuse.
12 To "purloin" is to steal with the element of stealth, that is, to
13 take by stealth the property of the United States government with
14 intent to deprive the owner of the use and benefit of the property
15 temporarily or permanently. A "taking" doesn't have to be any
16 particular type of movement or carrying away. Any appreciable and
17 intentional change in the property's location is a taking, even if
18 the property isn't removed from the owner's premises. The accused
19 did not have to know the United States government owned the property
20 at the time of the taking. A "conversion" may be consummated without
21 any intent to permanently deprive the United States of the use and
22 benefit of the property and without any wrongful taking, where the
23 initial possession of the converter -- by the converter was entirely

1 lawful. Conversion may include the misuse or abuse of property. It
2 may reach use in an unauthorized manner or to an unauthorized extent
3 of property placed in one's custody for limited use. Not all misuse
4 of government property is a conversion. The misuse must seriously
5 and substantially interfere with the United States government's
6 property rights. "Value" means the greater of one, the face, par, or
7 market value, or two, the price, whether wholesale or retail. A
8 "thing of value" can be tangible or intangible property. Government
9 information, although intangible is a species of property and a thing
10 of value. The market value of stolen goods may be determined by
11 reference to a price that is commanded in the market place whether
12 that market place is legal or illegal. In other words, market value
13 is measured by the price a willing buyer will pay a willing seller.
14 The illegal market place is also known as a "thieves market". "Cost
15 price" means the cost of producing or creating the specific property
16 allegedly stolen, purloined, or knowingly converted.

17 Four, the "thieves market" may be used to establish value
18 so long as the Govenmlemt presents evidence of the value of the
19 property or information at issue in the "thieves market". *United*
20 *States v. Hood*, 12 M.J. 890 (Army Court of Military Review 1982);
21 *United States v. Oberhardt*, 887 F.2d 790 (7th Circuit 1989).

22 The Court takes judicial notice that Black's Law Dictionary
23 (9th edition 2009) defines a database in relevant part as "a

1 compilation of information arranged in a systematic way and offering
2 a means of finding specific elements it contains, often today by
3 electronic means." The Court takes judicial notice that Black's Law
4 Dictionary defines a record as "information that is inscribed in a
5 tangible medium or that, having been stored in an electronic or other
6 medium, is retrievable in perceivable form." Databases are supported
7 by database management systems, infrastructure, and software.

8 Six, the records the accused is charged with SPKC in
9 Specifications 4, 6, 8, 12, and 16 of Charge II are maintained on
10 classified electronic databases. The databases, records, and
11 information contained therein are accessible only to individuals with
12 security clearances who have been approved by the Government to have
13 access to the information. The structure of the databases allows
14 multiple authorized users to access and extract the information
15 maintained on the database simultaneously. The records in the
16 database, and the information contained therein, may be extracted or
17 downloaded from the database by authorized users, however, the
18 records, and information therein, remain in the database after
19 extraction by users in the same condition as they existed prior to
20 the extraction.

21 Seven, Specification 16 of Charge II, charges the accused
22 with SPKC the USF-I GAL. The evidence presented by the Government
23 provides some evidence that 74,000 .mil addresses were found on the

1 NIPR supply room computer in the peter.bigelow account and on the
2 accused's personal MAC computer.

3 Eight, on 16 February 2012, the Defense filed a motion for
4 a bill of particulars. In Paragraph 10(a) and (b), the Defense asked
5 the following with respect to the specifications charging a violation
6 of 18 United States Code Section 641:

7 One, what specific theory of culpability does the
8 government intend to rely upon? In other words, does the Government
9 allege that PFC Manning "stole", "purloined" or "converted"?; and,

10 Two, if the Government is alleging that PFC Manning stole,
11 purloined, and converted the charged items, does each theory of
12 culpability apply equally to every charged item? On 8 March 2012,
13 the Government responded to Paragraphs 10(a) and (b) of the Defense
14 request for bill of particulars with a paragraph arguing that it
15 should not be directed to submit a bill of particulars because the
16 defense was attempting to restrict the Government's proof at trial.

17 In the paragraph the Government included the following sentence
18 "Furthermore, the theft-related offenses alleged in the case are of
19 specific, identified databases." In the bill of particulars, the
20 Defense posed questions with regard to the Government's theory of
21 prosecution. The Defense did not seek more specificity as to the
22 items charged. Nor did the Defense seek clarification after
23 receiving the Government's response. The Court finds the language of

1 the specifications themselves, rather than the Government's bill of
2 particulars response provides the accused notice of what the accused
3 is charged with SPKC.

4 Conclusions of Law:

5 One, 18 United States Code Section 641 was intended to
6 encompass all forms of common law larceny. *Morissette v. United*
7 *States*, 342 U.S. 246 at 253 (1952). The statute encompasses SPKC of
8 intangible information. Intangible information is "a thing of value"
9 under 18 United States Code 641. *U.S. v. Matzkin*, 14 F.3d 1014 (4th
10 Circuit 1994); *U.S. v. Lambert*, 446 F.Supp. 890 (D.C. Connecticut,
11 1978), affirmed; *United States v. Girard*, 601 F.2d 69 at 70 (2nd
12 Circuit 1979); *U.S. v. Collins*, 56 F.3d 1416, 1420 and note 3 (D.C.
13 Circuit 1995) (While not central to our analysis, we note that every
14 circuit, except one, dealing with this issue has held that intangible
15 property falls within the purview of Section 641.), See e.g. *United*
16 *States v. Jeter* 775 F.2d 670 at 680 (6th Circuit 1985) ("the
17 Congress' very use of the more expansive 'thing of value' rather than
18 'property' strongly implies coverage beyond mere tangible
19 entities."), cert. denied, 475 U.S. 1142 (1986); *United States v.*
20 *Croft*, 750 F.2d 1354 at 1361 (7th Circuit 1984) (services rendered
21 constitute a thing of value); *United States v. May*, 625 F.2d 186 at
22 191 and 92 (thing of value includes flight time); *United States v.*
23 *Girard*, 601 F.2d 69,71 (2nd Circuit 1979) (content of a writing,

1 while an intangible, is a thing of value), cert. denied 444 U.S. 871
2 (1979). [Note 3] The Ninth Circuit in *Chappell v. United States*, 270
3 F.2d 274 (1959), held conversion was limited to tangible chattels
4 under 641. This holding, however, remains in doubt within the
5 Circuit itself. See *United States v. Schwartz*, 785 F.2d 673 at 681
6 note 4 (9th Circuit 1986) ("this court has not cited *Chappell* in
7 support of its limited interpretation of thing of value since that
8 case was decided in 1959"). Even if SPKC intangible information
9 included in a SPKC of tangible information was not an offense under
10 18 U.S.C. Section 641, it would constitute an offense as charged in
11 Specifications 4, 6, 8, 12, and 16 under clauses one and two of
12 Article 134, UCMJ.

13 Two, Specifications 4, 6, 8, and 12 of Charge II, charge
14 the accused with SPKC a specified database and a number of records
15 contained within that database. Information is necessarily included
16 within the definition of both record and database. Thus,
17 Specifications 4, 6, 8, and 12 of Charge II provide the accused
18 notice that he is accused of stealing the information in the
19 described records and databases described in the specifications and
20 protect him from another prosecution for the same conduct. There is
21 no material or fatal variance between the pleadings and the proof.

22 Three, in Specification 16 of Charge II, the accused is
23 charged with SPKC the USF-I GAL. The fact that there were fewer

1 email addresses found on the accused's computer than included in the
2 USF-I GAL is not a material variance. The evidence presented by the
3 Government provided some evidence to show that the USF-I GAL was
4 produced by incorporating user data from the bottom up (brigade to
5 division to USF-I) with the domain iraq.centcom.mil. Thus, a subset
6 of the USF-I GAL, would be a lesser included offense for the fact-
7 finder. There is no material or fatal variance between the pleading
8 and the proof.

9 Four, the Government has moved to amend Specifications 4,
10 6, and 16 to conform with the evidence that the records, and
11 information therein, allegedly SPKC by the accused were portions of
12 the databases alleged to have been SPKC by the accused. The
13 amendments proposed by the Government do not change the nature -- do
14 not change the nature of the offenses, add a party, offense, or
15 substantial matter not fairly included in the original
16 specifications. The proposed amendments do not mislead the accused.
17 The amendments make the offenses lesser included offenses of the
18 original specifications. They are minor changes under R.C.M. 603(a).
19 The Court grants the Government's motion to amend Specifications 4,
20 6, and 16 to except the words "to wit" and substitute the words "to
21 wit: a portion of".

22 Five, a stealing or purloining requires that the accused
23 wrongfully take money or property belonging to the United States with

1 the intent to deprive the owner of the use and benefit temporarily or
2 permanently. The Government does not have to prove that the
3 Government suffered a loss or was deprived of the use and benefit of
4 the records, databases, or information therein, to prove a stealing
5 or purloining for the 18 U.S.C. Section 641 specifications. The fact
6 that the Government sustains no loss or actually receives some
7 service or benefit as a result of the accused's action does not
8 negate the accused's criminal intent. *U.S. v. Ayesh*, 702 F.3d 162 at
9 169 note 2 (4th Circuit 2012) (Indeed at least four circuits - the
10 First, Fifth, Seventh, and D.C. Circuit - have found that the
11 Government need not prove an actual loss to establish a violation of
12 Section 641. See *United States v. Herrera-Martin*, 525 F.3d 60 at 62,
13 64 (1st Circuit 2008) (affirming the conviction of a defendant who
14 used another person's name and identifying information to obtain a
15 federal housing voucher); *United States v. Milton*, 8 F.3d 39 at 41,
16 44 (D.C. Circuit 1993) (affirming a convictions of two brothers who
17 helped others submit false claims for back pay under a settlement
18 agreement between an employer and the Equal Employment Opportunity
19 Commission); *United States v. Barnes*, 761 F.2d 1026 at 1027 and 8
20 and 133 (5th Circuit 1985) (affirming the convictions of two
21 defendants who applied for and authorized fraudulent livestock loans
22 from the Farmers Home Administration, even though the money had
23 actually been used to buy livestock); *United States v. Bailey*, 734

1 F.2d 296 at 298 to 301 (7th Circuit 1984) (affirming the conviction
2 of a defendant attorney who had embezzled portions of loans used by
3 the Farmer's Home Administration). But see *United States v. Collins*,
4 464 F.2d 1163 at 1164 and 5 (9th Circuit 1972) (reversing a
5 conviction under Section 641 after finding that the money that the
6 defendant had stolen by forging and negotiating government issued
7 checks had belonged to a bank not the government)).

8 Six, a "conversion" may be consummated without any intent
9 to permanently deprive the government of the use and benefit of the
10 property and without any wrongful taking. Not all misuse of
11 government property is a conversion. The misuse must seriously and
12 substantially interfere with the government's property rights.
13 *Collins*, 464 F.2d at 1420; *United States v. May*, 625 F.2d 186 at 192
14 (8th Circuit 1980) quoting Restatement Second of Torts Section 222A
15 (One who is authorized to make a particular use of a chattel, and
16 uses it in a manner exceeding the authorization, is subject to
17 liability for conversion to another whose right to control the use of
18 the chattel is thereby seriously violated.).

19 Seven, in this case, the Government elicited evidence that
20 the Government maintained exclusive possession and stringent controls
21 over the classified information, records, and databases charged in
22 Specifications 4, 6, 8, and 12 of Charge II. The Government
23 authorized access to the information and records only by individuals

1 to whom the Government had given appropriate security clearances.
2 The Government maintained possession of the information and records
3 on classified SIPR computers. The Government provided further
4 evidence that the accused extracted and removed the classified
5 records, and information therein, from the SIPR computer in the 2nd
6 Brigade SCIF, downloaded them to his own portable digital media or
7 platform, removed the portable digital media and platform from the
8 2nd Brigade SCIF, transferred the records, and information therein,
9 to his personal portable digital media or platform in his private
10 housing unit, and then transferred the records, and information
11 therein, to WikiLeaks. The Court finds this to be some evidence of a
12 misuse of Government records that could seriously and substantially
13 interfere with the Government's property right to control the charged
14 records, and information therein, to withstand a motion for a finding
15 of not guilty under R.C.M. 917. For Specification 16 of Charge II,
16 the Government is not pursuing a theory of conversion.

17 Eight, SPKC of electronic data doesn't compare neatly to
18 cases where the defendant made photocopies of government records,
19 replaced the originals, and SPKC the photocopies. With SPKC, there
20 are no copies to steal until the accused accesses the digital
21 information and makes the extraction. The original digital database
22 and records remain in the database management system during and after
23 extraction.

1 Nine, the Government has not charged the accused with SPKC
2 a copy of Government records in the 18 United States Code Section 641
3 specifications. The Government is charging the accused with stealing
4 and purloining the databases, electronic records, and information
5 therein, at issue by accessing the relevant database, extracting the
6 records from the database management system structure, placing the
7 information on private platforms or digital media while in the 2nd
8 Brigade SCIF at Forward Operating Base Hammer, and asporting the
9 downloaded records, and information contained therein, to the
10 accused's personal platforms or digital media outside the SCIF in his
11 housing unit. The Government's theory is that the accused knowingly
12 converted the records, and information therein, in Specifications 4,
13 6, 8, and 12 by sending them to WikiLeaks.

14 Ten, the value of the information the accused is alleged to
15 have SPKC in Specifications 4, 6, 8, 12, and 16 may be considered to
16 determine whether the value of the charged database, records, or
17 information therein, is over \$1000.00. That said, the accused is not
18 charged in Specifications 4, 6, 8, 12, or 16 of Charge II with SPKC
19 any of the database management systems, infrastructure, or software.
20 As amended, the accused is not charged with SPKC the entire databases
21 in Specifications 4, 6, and 16 of Charge II.

22 Eleven, the Government argues that the databases, records,
23 and information in these systems [sic] would not exist without the

1 database management system, infrastructure, and software. The
2 Government proposes the value of the cost of creating and maintaining
3 the database management system, infrastructure, and software as a
4 basis to value of the databases, records, and information therein,
5 for Specifications 8 and 12 of Charge II. The Government further
6 proposes to establish the value for the records, and information
7 contained therein, by establishing the value of a pro rata share of
8 the cost of creating and maintaining the database management system,
9 infrastructure, and software for the databases in those
10 specifications. A similar argument could have been advanced in
11 *United States v. May*, 625 F.2d 186 (8th Circuit 1980) to allow the
12 Government to value the converted flight time by valuing the cost and
13 maintenance of the airplane itself, because the converted flight time
14 couldn't exist without the existence of the airplane. The Government
15 has proffered no authority where a court has allowed the Government
16 to equate the value of a database, records in a database, or
17 information therein, SPKC by an accused or defendant with the value
18 of the cost of creating and maintaining the database management
19 system, infrastructure, or software. This is a case of first
20 impression in the volume of database records, and information
21 therein, alleged to have been SPKCd by an accused or defendant. If
22 the accused downloaded 10 records from one of the databases alleged
23 in the 18 United States Code Section 641 specifications, the 10

1 records would also not exist without the database management
2 infrastructure, system, and software. The Government's proffer for
3 relying on the value of the cost of creating and maintaining the
4 database management system, infrastructure, and software to establish
5 value of the databases, records, and information contained therein,
6 relies on the volume of records allegedly SPKC by the accused. The
7 Court further recognizes that the Government's amendments to
8 Specifications 4, 6, and 16 of Charge II after the presentation of
9 the evidence to allege portions of the databases and USF-I GAL does
10 not afford the Defense the opportunity to cross examine any of the
11 valuation witnesses on the pro rata share of the databases or USF-I
12 GAL or to present evidence regarding the pro rata share of the
13 databases or USF-I GAL.

14 Twelve, the Government may not base the value of the
15 database, records, or information therein, for Specifications 4, 6,
16 8, 12, and 16 on the value of the cost of creating and maintaining
17 the database management system, infrastructure, or software. The
18 Court will disregard all evidence presented of such value when acting
19 as the fact-finder. The Government may present and argue thieves
20 market evidence regarding the value of the database, records, and
21 information therein, and on cost production evidence regarding the
22 cost of creating the information in the charged databases and
23 records, such as employee time and salary for data entry.

1 Thirteen, the Court reaffirms its 2 June 2013, ruling at
2 Appellate Exhibit 591, Government Motion to Qualify Mr. Daniel Lewis
3 as an Expert. The evidence presented by the Government of value in
4 the thieves market in excess of \$1000.00 for the records and
5 information contained therein for Specifications 4, 6, 8, 12, and 16
6 of Charge II is some evidence of value under the R.C.M. 917(d) to
7 withstand a motion for a finding of not guilty.

8 Fourteen, the Court's ruling mitigates any prejudice to the
9 accused resulting from the Government's amendments to Specifications
10 4, 6, and 16 of Charge II. The Defense motion for a mistrial as to
11 those specifications is denied.

12 Fifteen, the Court has examined the testimony and evidence
13 identified by the Government in part B(1 through 5) of its brief,
14 Appellate Exhibit 599, admitted to prove each of the elements for
15 Specifications 4, 6, 8, 12, and 16 of Charge II. The evidence
16 presented by the Government together with all reasonable inferences
17 and applicable presumptions, viewed in the light most favorable to
18 the Government, without an evaluation of the credibility of the
19 witnesses, could reasonably tend to establish every essential element
20 of Specifications 4, 6, 8, 12, and 16 of Charge II.

21 Bullying:

22 One, the Defense Motions for a Finding of Not Guilty for
23 Specifications 4, 6, 8, 12, and 16 of Charge II is DENIED.

1 Two, the Government motion to amend Specifications 4, 6,
2 and 16 of Charge II is GRANTED.

3 Three, the Defense Motion for Mistrial is DENIED.

4 Four, the Government may not base the value of the charged
5 databases, records, or information therein, on the value of creating
6 or maintaining the database management system, infrastructure, or
7 software. The Court will disregard such evidence presented as the
8 fact-finder. The Government will not refer to such evidence in
9 closing argument.

10 So ordered this 24th day of July 2013.

11 The Court's order will be added as the next Appellate
12 Exhibit in line.

13 ATC[CPT MORROW]: Ma'am, with regards to Paragraph 13, the
14 Court indicated that Appellate Exhibit 591 was dated 2 June 2013. I
15 believe it was 2 July 2013.

16 MJ: All right. May I see that once again?

17 **[The court reporter handed the order to the military judge.]**

18 MJ: During the next recess the Court will double check that and
19 if necessary substitute the Appellate Exhibit with a ruling with the
20 correct date.

21 All right. Once again, we have a motion to reconsider that
22 ruling. If we have oral argument on that motion that will be on
23 Monday at 0930 and the government's response to the defense motion

1 which will be apparently posted on Mr. Coombs' website is due
2 tomorrow by close of business. Is there anything else we need to
3 address before we proceed to closing argument?

4 CDC[MR. COOMBS]: If we could have a brief 10-minute
5 conference break.

6 TC[MAJ FEIN]: Ma'am, if we could make it 15, just because of
7 the number of people in the courtroom to allow everyone to use the
8 latrine if they need to and come back.

9 MJ: All right. Why don't we recess the Court then until 1035.
10 Court is in recess.

11 [The court-martial recessed at 1020, 25 June 2013.]

12 [The court-martial was called to order at 1039, 25 June 2013.]

13 MJ: Court is called to order. Let the record reflect that all
14 parties present when the Court last recessed are again present in
15 court. Government, ready to proceed?

16 TC[MAJ FEIN]: Yes, Your Honor.

17 Your Honor, if it may please the Court. In late October
18 2009, PFC Bradley Manning deployed with his unit to a war zone,
19 having sworn an oath of allegiance and a pledge to protect national
20 security interest of the United States. He deployed fully armed, not
21 only with protective gear and a rifle, but armed with the stark
22 knowledge of the harm that could accrue if classified materials
23 compromised. His position, as an All Source Intelligence Analyst was

1 a special trust. But within weeks of arriving at Iraq, he abused and
2 destroyed this trust with the wholesale, indiscriminate compromise of
3 hundreds of thousands of classified documents. He delivered these
4 documents ready made for use by an enemy via a platform he had long
5 researched and come to know, WikiLeaks. He delivered these documents
6 for notoriety. PFC Manning's state of mind has been subject of
7 speculation throughout this trial, Your Honor. He had humanist dog
8 tags; however the fact of the matter is that the only human PFC
9 Manning ever actually cared about was himself and his callousness is
10 revealed through his own chats. If it's a country, he's got dirt on
11 him. "Worldwide anarchy in CSV format" "Hillary Clinton is going to
12 have a heart attack." And the best evidence of PFC Manning's state
13 of mind before he had time to make up a story is a picture, Your
14 Honor. This picture, a picture is worth a thousand words. This
15 picture was taken by PFC Manning himself in January of 2010, during
16 the same week he transmitted hundreds of thousands of Significant
17 Activity Reports to WikiLeaks. And this picture, Your Honor, was
18 found in the same SD card as those classified SigActs. What you
19 see, Your Honor, in this picture is not a troubled, anguished or well
20 intentioned Soldier struggling with the consequences of U.S. military
21 action or foreign policy. This is a gleeful grinning PFC Manning,
22 who signed the transmittal letter to WikiLeaks describing the SigActs
23 with the salutation, have a good day. PFC Manning spent 6 months of

1 a combat deployment abusing his access to SIPRnet. Looking for
2 bigger fish, more damaging information to scrape because he wasn't
3 interested in oaths, or obligations or simple acknowledgments that he
4 would protect closely held information. He was interested in making
5 a name for himself. A statement he made prior to deployment turned
6 out actually to be true. The flag meant nothing to him. PFC Manning
7 was calculating and self-interested. His acts resulted in the
8 unfettered access to classified information by enemies of the United
9 States, an outcome all too clear to him as a result of his training,
10 Your Honor.

11 How did PFC Manning know the enemy would receive this
12 information? Because he's aware, Your Honor, of how WikiLeaks
13 operated and the type of information that WikiLeaks sought. He
14 ultimately knew that what he provided to WikiLeaks, would make its
15 way to the enemy. Because he knew the enemy used WikiLeaks as their
16 own resource. PFC Manning knew that WikiLeaks, and specifically
17 Julian Assange, considered themselves the first intelligence agency
18 for the general public. Because it did, "from his chats everything
19 an intel agency does". PFC Manning scoured every possible source
20 about WikiLeaks he could find on SIPRnet, the classified SIPRnet, and
21 saw how the United States Government Intelligence Committee
22 considered WikiLeaks a threat to the United States, an organization
23 with the term leak in their name who specialized in assisting those

1 with access to classified information and extracting that information
2 from Government systems and disclosing it to the world anonymously.

3 Your Honor, there's voluminous amounts of evidence in this
4 case. And the United States is confident that at the end of the
5 argument the Court has a clear understanding of what Private First
6 Class Manning did or did not do and what he did or did not know. In
7 order to best understand this complexity of the evidence, the United
8 States intends to follow this roadmap for the remaining portion of
9 the argument.

10 First, Your Honor, a recount of key evidence. Then -- The
11 United States intends to explain how PFC Manning's formal education
12 and training gave him skills and knowledge that he ultimately used to
13 the detriment of the United States. Then, Your Honor, I intend to
14 explain PFC Manning's work product as an Intelligence Analyst to
15 demonstrate how he knew and appreciated the types of information he
16 deliberately and intentionally chose to compromise. Then, Your
17 Honor, I intend to explain PFC Manning's actual knowledge of
18 WikiLeaks through his own words and research, focusing on what PFC
19 Manning knew and thought at the time he was actually compromising
20 information to WikiLeaks. Then, Your Honor, I intend to walk you
21 through the evidence in a chronological order by type of information
22 that PFC Manning intentionally and deliberately compromised through
23 multiple transmissions. This, Your Honor, is the order that you will

1 see. Then, Your Honor, I'll outline the evidence proving that PFC
2 Manning wantonly caused intelligence to be published on the internet,
3 conduct that was prejudicial to good order and discipline and
4 services discredit to the armed forced. Finally, Your Honor, I'll
5 outline the evidence that will prove that PFC Manning aided the
6 enemies of United States by knowingly giving intelligence through
7 indirect means to Al-Qaeda and Al-Qaeda in the Arabian Peninsula.

8 Throughout this case, Your Honor, the United States
9 admitted more than 160 pieces of physical and documentary evidence.
10 The Court has heard testimony from more than 80 witnesses, including
11 stipulations of expected testimony and two stipulations of fact.
12 Although all this evidence is useful to understand how Private First
13 Class Manning committed his crimes, as it relates to specific
14 specifications and charges that are key pieces of evidence for which
15 United States explained during the opening that span more than one of
16 the specifications. And the United States argues that this evidence,
17 this -- that this evidence, this key evidence, should remain in the
18 forefront of your mind during deliberations.

19 First, Your Honor, SIPRnet computers identified as .22 and
20 .40. These two SIPRnet computers are the DCGS-A computers and PFC
21 Manning's exfiltration instrument. It is his link to the closely
22 held world maintained by the intelligence community on SIPRnet.

1 Second, PFC Manning's personal computer, an Apple McIntosh
2 laptop. This computer was PFC Manning's connection between the
3 closely held world on SIPRnet and his connection to the rest of the
4 world. He used this computer to communicate and transfer the closely
5 held information to Julian Assange's to WikiLeaks. He also
6 forensically wiped his computer on 31 January 2010, thus covering his
7 tracks and deleting any forensic evidence of his crimes prior to that
8 date. What PFC Manning did not plan for, Your Honor, was the ability
9 of the forensic examiners to recover certain information such as the
10 chats between him and Julian Assange and Adrian Lamo and the volume
11 mounting data. The volume data shows the date that certain
12 information was burned on the CDs from his SIPRnet computer and then
13 those CDs brought into and introduced by Personal MAC. That
14 information was logged as a key piece of evidence in this case.

15 Third, Your Honor, PFC Manning's external hard drive. This
16 is an external storage device that he brought to Iraq with him to
17 store contact information for WikiLeaks, Army Doctrine and Training,
18 his own corrective training OPSEC briefing, which I'll discuss later.

19 Fourth, PFC Manning's SD card, on which he saved a copy of
20 the entire SigAct portion of CIDNE Iraq and Afghanistan databases as
21 a trophy for successful disclosures.

22 Fifth, Jason Katz's computer from Brookhaven National
23 Laboratories, which contained the Gharani airstrike video compromised

1 by PFC Manning in a file dated 15 December 2009. 15 December 2009,
2 Your Honor.

3 The sixth key piece of evidence are the audit logs. These
4 are from multiple servers, firewalls operating on SIPRnet, which
5 captured PFC Manning's minute-by-minute activity across the
6 classified web. Intel link logs that show searches for WikiLeaks 119
7 times starting on 1 December 2009, just, 2 weeks, Your Honor, after
8 having access to SIPRnet. The CENTCOM SharePoint server logs showing
9 the Farah investigation being accessed. Department of State server
10 and firewall logs showing unfathomable amounts of data and activity
11 in the late March and early April 2010 timeframe. The Centaur net
12 flow data logs that show PFC Manning crisscrossing across the SIPRnet
13 connecting to different servers to his two SIPRnet computers.

14 Your Honor, seventh, the supply annex computer with the IP
15 address ending .19. This is the computer PFC Manning used to steal
16 USFI Global Access List.

17 The eighth piece of key evidence, Your Honor, Prosecution
18 Exhibit 130. Your Honor, Prosecution Exhibit 130 is the evidence
19 showing Private First Class Manning elicited Julian Assange to assist
20 him in cracking a password, a user password on a SIPRnet computer.

21 And finally, Your Honor the WikiLeaks Most Wanted List, PFC
22 Manning's guiding light on what SIPRnet available information he
23 should target for release.

1 Your Honor, as previously stated, PFC Manning is and was at
2 the time an All Source Intelligence Analyst. He was granted SIPRnet
3 access to accomplish his duties and responsibilities as an
4 Intelligence Analyst. He received a full complement of training for
5 a 35 Fox at AIT. Multiple witnesses testified that PFC Manning was
6 at AIT, attended every class that they could remember, and received
7 the formal training presented in Prosecution Exhibit 5 and
8 Prosecution Exhibit 6. Your Honor, those are the program instruction
9 lesson plans and AIT student evaluation plan. Your Honor, in terms
10 of information security. Specifically information security, PFC
11 Manning received a briefing that's at Prosecution Exhibit 52.
12 Prosecution Exhibit 52, and that's this slide, Your Honor, it starts.
13 This is Slide 1 of course the title. The actual training PFC Manning
14 received on information security Army Regulation 380-5. Slide 7,
15 Your Honor, the classification designations. What information was
16 Confidential, Secret, Top Secret, and what does it mean when
17 something is Secret or Confidential. That it could cause serious
18 damage to national security. Slide 8, Your Honor, the process of
19 classifying information. How does the United States Government,
20 under the Executive Order and Army Regulations classify it, who are
21 the proper authorities, and who is allowed to make those decisions.
22 Your Honor, Slide 10. The criteria, the criteria to classify
23 information. What type of information is classified when you see a

1 classified document from military plans and weapon systems to foreign
2 relations. Slide 11. Your Honor, the prohibitions and limitations.
3 And the key here, Your Honor, is in the blue on the bottom where
4 Private First Class Manning was put on notice that classified
5 information is owned by and produced by and for and is under the
6 control of the United States Government. In Slide 14. PFC Manning
7 learned how to properly mark documents and read documents to know if
8 they are marked classified. Slide 21. He learned about the
9 declassification process; who are the authorities; who is allowed to
10 let information out of the possession of the United States
11 Government. Slide 31. He specifically learned about an individual
12 responsibility. His responsibility to protect classified
13 information. Slide 38. The different ways to store classified
14 information, the standards and regulations. And Slide 41. The
15 control measures in place in order to protect classified information.

16 Your Honor, during the briefing he also learned under Slide
17 48 how to properly mark digital media with the different types of
18 stickers, if it's Secret, Top Secret, Unclassified or Confidential.
19 Your Honor, we know PFC Manning understood how to label digital media
20 in this case. You heard Special Agent Smith that he found the Apache
21 video on a disk in PFC Manning's CHU with a Secret sticker. This is
22 it, Your Honor, Prosecution Exhibit 15. A Secret sticker that
23 Private First Class Manning put on the CD because he believed at the

1 time, even though he burned it from his personal Macintosh computer
2 that that video, the Apache video was classified Secret.

3 Your Honor, according to Prosecution Exhibit 52, Private
4 First Class Manning was trained also on why it was important to
5 protect particular information. So here is Slide 71. The enemy will
6 attempt to discover how and when we are conducting operations.

7 Knowing this we must protect our activities from detection. Slide
8 72, the next slide. The critical information we protect from
9 enemies. From unit capabilities, intent, to actual unit morale.

10 TTPs. And, finally, Your Honor, Slide 73. The reasons we prevent
11 disclosures in bright bold red. Don't discuss operational activities
12 on the web or email. Consider the audience when you are posting to a
13 blog, personal web page or an email. Always assume the adversary is
14 reading your material. And at bottom, Your Honor, remember, it's
15 called the worldwide web for a reason. This is the training he
16 received day one as an Intelligence Analyst. Your Honor, what the
17 slide did not -- excuse me, Your Honor, what slides you did not see
18 in the slide deck presented in Prosecution Exhibit 52 for the entire
19 set of slides, is a slide that tells Private First Class Manning that
20 he's authorized. He's authorized to make classification decisions.
21 He's authorized to disclose information he chooses to, to foreign
22 nationals and ultimately to enemies of the United States.

1 Your Honor, Mr. Moul, Private First Class Manning's AIT
2 instructor recounted that, when instructing PFC Manning in his class,
3 he explained that the worldwide web was called that for a reason.
4 Anyone had access to the information on the internet and can see any
5 of the information that is on the internet. It was imperative that
6 Soldiers understood this. Mr. Moul taught PFC Manning and his fellow
7 classmates that whenever they put information on the internet that it
8 could be used against them or against the U.S. Military. And he
9 taught the following example, his own words, to the lowest level of
10 how posting information how it could help the enemy, if given
11 Soldier's name, mother's maiden name and social security number,
12 while separate, his example was it couldn't do much damage. But he
13 explained to the lowest level, that when that information is
14 combined, and that is put on the internet, that a person could grab
15 that information, take credit out of someone's name and do harm to
16 that individual and that individual's reputation. Similarly, he
17 taught PFC Manning, if you release a unit's name, their location and
18 mission then the enemy can use that information to plan an attack on
19 our units. Your Honor, PFC Manning was trained on the identities of
20 terrorist groups, including Al-Qaeda, using training slides from AIT,
21 Prosecution Exhibit 51, Mr. Moul testified that PFC Manning was
22 trained the enemy used the internet. And that anything that the
23 enemy can use or piece together to use against the United States

1 should be protected, to include PII, unit identification and movement
2 information. Mr. Moul also instructed PFC Manning on specific
3 enemies and what capabilities. He taught PFC Manning about terrorism
4 and different terrorist organizations. Slide 216. Your Honor,
5 Private First Class Manning formally learned who Al-Qaeda was and
6 specifically who Usama bin Laden was. Slide 219. Formally learned
7 who Al-Qaeda in Iraq was. Slide 221. Learned about the recruiting
8 that terrorists did. Slide 223. PFC Manning learned that over the
9 past 10 years the number of terrorist websites has jumped from less
10 than 100 to as many as 4,000. In addition to this training, Your
11 Honor, the United States admitted PFC Manning's information
12 assurance training and certificates that showed he completed that
13 training, that's at Prosecution Exhibit 7 and Prosecution Exhibit
14 114. Your Honor, Prosecution Exhibit 7 the training that he received
15 in 2008 and 2009. Slide 2. Based off this training he knew each and
16 every one of us play a vital role in DoD information safe and must
17 abide by the principles of IA in a daily routine to protect DoD
18 information in our systems. Your Honor, Slide 7 of the training that
19 he passed the test twice on, PFC Manning knew the importance of
20 critical infrastructure protection, that if information and
21 information systems are compromised, it can impact our mission or
22 national security and ultimately our lives. Your Honor, Slide 11 of
23 Prosecution Exhibit 7. PFC Manning knew the threats made to

1 information assurance, which included both internal and external
2 human threats, specifically disgruntled employees, spies or
3 terrorists and hackers.

4 Your Honor, as a trained intelligence analyst, PFC Manning
5 was required to have a Secret clearance at AIT and eventually Top
6 Secret SCI clearance as a full 35 Fox. PFC Manning knew that a
7 person may only be granted access to classified information if three
8 things were true; first, the individual has a security clearance;
9 two, individual had a need to know the information; and three, the
10 person has signed a nondisclosure agreement, an SF 312. Private
11 First Class Manning signed on two separate nondisclosure agreements
12 and a litany of other acknowledgments. These documents permitted him
13 to have access to classified information, identified the information
14 that was owned by the United States Government, highlighted potential
15 ramification if he disclosed or handled the classified information
16 improperly and what a Soldier is required to do if he is uncertain
17 of the classification status of the information. A document signed,
18 two documents, excuse me, Your Honor, signed by PFC Manning on what
19 he is required to do, if he's uncertain about classification. And
20 violations of nondisclosure agreements can result in criminal
21 prosecution under 18 U.S.C. 793 and 641.

22 Your Honor, Ms. Elisa Ivory, she testified through a
23 stipulation of expected testimony that on 7 April 2008, she briefed

1 PFC Manning about the dangers of putting U.S. Army and Government
2 classified information on the internet. She briefed PFC Manning that
3 putting information on the internet not only exposes information
4 relating to our national security, but it also puts each Soldier with
5 a security clearance at risk of black mail by our adversaries given
6 their position of trust to safeguard classified information. Ms.
7 Ivory also explained to PFC Manning the purpose of the NDA. And she
8 asked PFC Manning if he wanted to voluntarily sign that NDA. He did.
9 Then PFC Manning stood, raised his right hand and stated that he
10 accepted the responsibilities contained within that nondisclosure
11 agreement. Including that he accepted the special confidence and
12 trust placed in him by United States Government. PFC Manning then
13 executed that NDA with Ms. Ivory. Prosecution Exhibit 59 is that
14 nondisclosure agreement, which PFC Manning pledged not to violate in
15 order to obtain access to classified information, and that was the
16 one at Fort Huachuca. Now, Your Honor, Prosecution Exhibit 60 is the
17 second nondisclosure agreement, which PFC Manning pledged not to
18 violate in order to obtain classified information while at 2/10
19 Mountain. And Chief Balonek made sure he understood those
20 obligation, as he testified. Your Honor, by voluntarily signing two
21 nondisclosure agreements, Private First Class Manning knew the
22 importance of protecting classified information and that the
23 violations of the agreements could result in the precise criminal

1 action of this trial. PFC Manning knowingly violated both
2 nondisclosure agreements; thus, violating the special trust and
3 confidence that he committed to in order to obtain access to
4 classified information. That same access that he abused in order to
5 disclose hundreds of thousands of classified documents. Your Honor,
6 during AIT Private First Class Manning learned and understood how the
7 United States Army and its enemies waged war. This is evidenced by
8 the amount of training materials that PFC Manning himself retained
9 and cataloged on his external hard drive, Prosecution Exhibit 11.
10 Your Honor, what did PFC Manning keep for easy reference next to the
11 WikiLeaks contact information file, that's Prosecution Exhibit 24,
12 We'll talk about in a moment; he kept the Microsoft PowerPoint Brief
13 Title Insurgent Propaganda TTPs. He kept a copy of U.S. Army Field
14 Manual 2-0 titled Intelligence, which states that our enemies
15 weapons range from computers connected to the internet to weapons of
16 mass destruction. He kept a copy of Army Regulation 525-13 entitled
17 Anti-Terrorism. That regulation states that terrorists use instances
18 of website tampering to further their cause. He kept on his external
19 hard drive a copy of U.S. Army Field Manual 7-100.1, which states
20 that personal computers on the internet are few examples, just a few,
21 of the capabilities widely available to nations, independent
22 organizations and individuals. And that information warfare could be
23 conducted with such easily accessible means such as the internet.

1 Your Honor, he also kept a copy of Army Field Manual 7-100.4, which
2 in Appendix C states, that the insurgent organizations may be capable
3 of cyber mining for intelligence. Your Honor, PFC Manning neatly
4 organized possession of all this information on his external hard
5 drive. That is additional evidence he knew and understood all that
6 information. He showed that he had actual knowledge by enabling
7 closely held information, sensitive information that he posted on the
8 internet. He was given that information that enemies of United
9 States and specifically Al-Qaeda and Al-Qaeda in the Arabian
10 Peninsula. In addition to AIT training and the reference material
11 PFC Manning saved on his external hard drive, he received formal and
12 on-the-job training while assigned to 2/10 Mountain as an
13 Intelligence Analyst.

14 Your Honor, according to Sergeant First Class Anica at his
15 first JROTC -- JRTC rotation, PFC Manning's job was focused on
16 signature activities in areas of operations. This required constant
17 research, constant reviewing of information related to attacks that
18 insurgents were conducting, such as with IEDs, small arms fire, and
19 indirect fire. PFC Manning was required to pull that information and
20 put together timelines for the S-2 shop. When IEDs were occurring
21 and how often and where. So the other analysts could go pattern
22 analyses product to see if the IEDs could be targeted. The
23 intelligence PFC Manning mined, there was actually role playing

1 SigActs according to Sergeant First Class Anica. Chief Balonek also
2 testified he trained PFC Manning on how to use DCGS-A machine in data
3 mining. Chief Balonek testified that he worked with PFC Manning on
4 intelligence summaries of the day, which were a daily roll ups of all
5 the intelligence reporting from that day compiled into one document.
6 And each analyst, like PFC Manning, was required to actually tag it
7 and give the meaning of those reports. Your Honor, Mr. Madaras, then
8 Sergeant Madaras, testified that at his DCGS-A training, PFC Manning
9 was told that DCGS-A field support representative would be down range
10 and be responsible for handling all hardware and all software issues
11 for the DCGS-A machines in theater. That is when PFC Manning was
12 first put on notice that the DCGS-A contractors were in charge of
13 those computers. Sergeant First Class Anica testified PFC Manning
14 had exposure to SigAct at Fort Drum, not just at JRTC. As he is
15 required to read reports, pick up the highlights, locate the bad guys
16 and brief those findings, to the S-2 and ultimately to the Brigade
17 Commander, Colonel Miller. Sergeant First Class Anica testified that
18 PFC Manning also read many intelligence summaries, which included
19 SigActs from the CIDNE database, particular vehicle borne IEDs,
20 assessments on pattern analysis, assessments of the enemy in the
21 area, political figures that were friendly. He also testified that
22 the unit received formal IED training in December of 2008. A mobile
23 training team, Your Honor, from the Joint IED Defeat Organization or

1 JIEDDO came to Fort Drum to teach the analysts what their
2 organization did for units downrange and where to go for assistance
3 when finding IED cells in certain area. According to Mr. Madaras the
4 unit trained in JRTC again in approximately July of 2009, at this
5 time the focus was on Iraq, first deployment or first JRTC rotation
6 was focused on Afghanistan, Your Honor. During this second rotation
7 PFC Manning was again assigned to fusion cell and had similar
8 responsibilities as the previous JRTC.

9 Your Honor, it's clear that PFC Manning arrived at FOB
10 Hammer with specialized training from AIT, experience from two JRTC
11 rotations and his garrison intelligence work. He also arrived with
12 an external hard drive full of valuable and informative intelligence
13 references. All this combined, Your Honor, all this combined is
14 enough to prove that PFC Manning's actual knowledge that the enemies
15 of the United States used the internet and WikiLeaks to gather
16 information to be used against this country. However, Your Honor,
17 there is one key piece of evidence which PFC Manning also brought to
18 Iraq with him that proves he should be held accountable for
19 deliberate and intentional acts of releasing volumes of classified
20 information through WikiLeaks to enemies of this country.

21 We are here today, Your Honor, to hold PFC Manning
22 accountable for the exact training he gave others, the training he
23 gave others on this subject matter. During Mr. Johnson's forensic

1 examination of Private First Class Manning's external hard drive, he
2 found Private First Class Manning's corrective training presentation,
3 which Sergeant First Class, retired, Madrid confirmed was the one
4 presented to him by PFC Manning. Your Honor, this is Prosecution
5 Exhibit 25. Prosecution Exhibit 25, Slide 1, Your Honor, dated 13
6 June 2008, created, researched by Private First, well the, PV2
7 Manning, Bradley. Your Honor, Slide 2, he provided his own roadmap
8 to protecting this country operational security. Slide 3, Your
9 Honor, PFC Manning's definition of OPSEC focused on the protection of
10 information, public assets, military assets, personnel and national
11 security. Slide 4, Your Honor, the type of information to protect to
12 include dates, times, locations along also for official use only
13 information, such as the Army's capabilities on the battlefield.
14 Your Honor, Slide 5 of PFC Manning's own briefing where he's
15 highlighting that you must protect dates and kind of large groups
16 within the Department of Defense, high ranking NCOs and commanders,
17 and even diplomats, protect their information, Your Honor. Slide 6,
18 protecting location of Government facilities and military
19 installations, such as critical infrastructures of the United States
20 and FOBs and COBs. Slide 7. Protecting individual Soldier's names,
21 family members, dates of birth and addresses. He recognized, Your
22 Honor, that in Slide 7 Soldiers are required to protect the names and
23 other identifying information of our fellow Soldiers. Slide 8. That

1 we must protect the methods of intelligence gathering, description of
2 weapons and vehicles we use, and the capabilities and vulnerabilities
3 of the United States Army. Slide 9. Private First Class Manning
4 specifically lists those groups that he then considered adversaries
5 of the United States for the purpose of divulging closely held
6 information, foreign governments, terrorists and anyone including
7 activists and hackers. Slide 10, Your Honor. On 13 June 2008,
8 after identifying the adversaries to the United States PFC Manning
9 further delineated the common OPSEC leaks for closely held
10 information. That includes on newspapers and magazines, news
11 programs and documentaries and the internet. Including chatrooms,
12 social networking and videos. And then on Slide 11 , Your Honor, his
13 conclusion on 13 June 2008, he concluded his briefing by stating,
14 Soldiers must avoid disclosures of information the following forms;
15 public conversations with journalists, and posting information on the
16 internet. Soldiers must use common sense with OPSEC and protect
17 our nation's secrets. Because there are many enemies and we live in
18 a free and open society.

19 Your Honor, this is not the product of just any Soldier in
20 uniform but of PFC Manning, a trained Intelligence Analyst who on 13
21 June 2008, understood what he taught others that the importance of
22 protecting our closely held information and knew that releasing such

1 information on the internet would be in the hands of terrorists and
2 other adversaries of this nation.

3 Your Honor, PFC Manning was an Intelligence Analyst, as you
4 know, assigned to the S-2 Section at 2/10 Mountain. At FOB Hammer
5 the S-2 Section worked in a T-SCIF located in the brigade
6 headquarters building. The T-SCIF was a facility designed to store
7 classified information. Everyone who worked the T-SCIF was required
8 to have a Top Secret clearance. For Soldiers who did not work in the
9 T-SCIF, who requested access they were required to have an escort to
10 enter the SCIF. That even included the brigade commander, Colonel
11 Miller. If the Soldier did not have a security clearance, the T-SCIF
12 would be sanitized, each S-2 Solider, including PFC Manning, was
13 responsible for moving classified information out of sight. When a
14 Soldier entered or left the T-SCIF they are not searched. Instead it
15 was their personal responsibility to leave any electronic devices
16 outside the SCIF and not to remove any classified information from
17 the SCIF unless for official purposes only. Your Honor, why were
18 Soldiers not searched? Captain Lim gave that answer. He testified
19 within the S-2 section: trust. Trust was imperative because the
20 intelligence Soldiers dealt with classified information on a daily
21 basis and it was their job, their specific job to protect classified
22 information. Colonel Miller testified as the brigade commander that
23 trust within a unit is everything in theater. It is no different as

1 an Infantryman to trust another Soldier to provide front, rear and
2 side security on a convoy as it is for an Intelligence Analyst who
3 trusts his fellow analyst to safeguard classified information from
4 the hands of the enemy. If PFC Manning had not signed those NDAs
5 before he was deployed, he would not have worked in a T-SCIF and
6 would not have been able to commit the crimes we are here today for.

7 Your Honor, you have heard from a number of witnesses about
8 the job of an intelligence analyst in a deployed environment.

9 Members of PFC Manning's unit discussed what systems were used, how
10 intelligence products were created and how to defeat the enemy, and
11 what role PFC Manning specifically played in that process. Your
12 Honor, first, let's talk about what systems the analyst used at FOB
13 Hammer. Intelligence analysts at FOB Hammer primarily used the
14 SIPRnet to gather intelligence. On SIPRnet the analysts were
15 assigned a DCGS-A computer system. They had programs, regular --
16 well the DCGS-A computers contained program that were regularly used
17 by the analysts and readily accessible a special suite of programs
18 installed in the SIPRnet computers specifically designed for a United
19 States Army All Source Intelligence Analyst to complete their
20 assigned tasks. Your Honor, you heard from Sergeant Sadtler, a
21 SIGINT Soldier, not an All Source Intelligence Soldier, a SIGINT
22 Soldier who never even seen DCGS-A, because that was a system solely
23 for All Source Intelligence Analysts. Mr. Kitz testified that the

1 DCGS-A machine is essentially a portfolio of intelligence processing
2 and exploitation and dissemination capabilities. Members of S-2
3 section had complied with the programs commonly employed by analysts
4 within the office were CIDNE, Query Tree, ARC-GIS, and Intelink.
5 CIDNE, Your Honor, was the most commonly used system and database for
6 analysts. In particular analysts regularly SIGACTs which are
7 tactical reports significant activity from the field. Your Honor,
8 Mr. Buchanan, through a stipulation of expected testimony testified
9 that Intelink is a search engine or SIPRnet similar to Google, that
10 also enables collaboration among members of the intelligence
11 community. Mr. Madaras explained that analysts typically used
12 Intelink when they didn't have specific background knowledge on a
13 certain topic so they didn't know what database to go to originally.
14 So they would search on Intelink. Analysts also used other programs,
15 such as mIRC Chat, which is a collaboration tool, similar to instant
16 messaging, which allows analysts to quickly receive and disseminate
17 information to and from the field up and down from the division to
18 battalion. Your Honor, next you heard testimony how analysts create
19 their products. And PFC Manning's role in that process. Private
20 First Class Manning was assigned to the fusion cell at FOB Hammer
21 where he was responsible for contributing to the large scale enemy
22 train analysis and predictive analysis focused on the Shia, his focus
23 in Southeast Baghdad, Your Honor, was on the Shia threat.

1 Your Honor, before continuing about the steps that Private
2 First Class Manning went through in order to accomplish his normal
3 intelligence tasks and to show his knowledge of what intelligence
4 analysts knew about the enemy, please note that the suite of tools
5 that the Army gave PFC Manning to enable him to collate data, those
6 tools, that based off PFC Manning's actions he enabled the enemy to
7 have that information that the United States relies on its special
8 tools to collate, organize, and analyze. He provided that
9 information, packaged to the enemy. So now they can just analyze.
10 He took all of the initial steps that they would need to do and gave
11 that to them packaged, ready to be exploited, and the entire world.
12 Yet we and the United States Army, has special systems that allows to
13 pull that information. So speaking of those systems, Your Honor,
14 the first step in the process is to pull and consolidate from various
15 sources a particular topic, such as enemy activity in a certain
16 region over a certain period of time. After organizing the
17 information the analysts would then plot the information on a map to
18 visualize or create an intelligence summary. Members of PFC
19 Manning's unit testified that he was the go-to-guy for data mining,
20 the process of gathering mass intelligence on a particular topic and
21 organizing that intelligence in a usable format. PFC Manning's job
22 was to reach into our databases, pull what's necessary and organize
23 it. Chief Ehresman ranked him a 10 out 10 of in data mining.

1 Captain Fulton and Chief Balonek they testified in conducting this
2 analysis generally required Soldiers first to comb through various
3 databases for the applicable intel reports or SIGACTs. Captain
4 Fulton testified that she would often employ PFC Manning to data
5 mine for mass information, particularly the SIGACTs relating to
6 specific enemy activity, organize and display it on a map for her.
7 The purpose of this task, as Captain Fulton explained, Your Honor,
8 was to determine whether the amount of attacks had increased or
9 decreased over a time. As the unit prepared to draw down and
10 redeploy from Iraq. Captain Fulton used this information to brief
11 Colonel Miller on a weekly basis so he could make command decisions.
12 Chief Balonek testified that PFC Manning employed similar skills,
13 similar skills when he prepared Iraq SIGACTs spanning a 3-year period
14 consisting of in IEDs attacks and small arm fire against convoys in
15 their brigade.

16 The second step in this intelligence analyst product,
17 process. As Chief Ehresman explained, was to make an assessment on
18 the current enemy threat level and what it may happen in the
19 immediate or distant future. The second step is where the analysis
20 comes in to play; namely enemy trend analysis and predictive
21 analysis. Enemy trend analysis is a study of how our enemies
22 operate, to identify any trends or patterns in their behavior.
23 Predictive analysis, Your Honor, is the art of predicting enemy

1 activity. Enemy activity based upon enemy trends. Or put another
2 way, enemy trend analysis leads to predictive analysis. Chief
3 Ehresman testified that historical and current data are important for
4 conducting this analysis, as enemy groups tend to operate in the same
5 areas and employ the same tactics over time. Historical information
6 is just as useful to intelligence analyst as the most current
7 information. It benefits -- Its benefit, the historic information
8 versus current, varies based of the desired intelligence product.
9 The focus of the product. Both enemy trend analysis and predictive
10 analysis is essential for the commander to make his tactical
11 decisions. And you heard from Captain Fulton that PFC Manning was a
12 good analysts and accomplished his assigned tasks, which included
13 pulling information based off her taskers and his knowledge of what
14 the officer, she, wanted or needed about the enemy. You also heard
15 from Mr. Hall, a defense expert qualified in the field of
16 intelligence analyst, that even junior analyst, Your Honor, junior
17 analysts like PFC Manning, knew that the enemy's capability and the
18 enemy is just as capable as piecing together information as our own
19 junior analysts are. Although junior analysts are not expected to
20 conduct in-depth predictive analysis, they understand the enemy's
21 capabilities to use that information. Your Honor, you also heard
22 from Mr. Hall that all analysts, even junior analysts, understand the
23 PIR, priority information requirements. The gaps in intelligence and

1 information that a commander has about the enemy, and how
2 intelligence analysts know this and work to answer those specific
3 gaps.

4 Your Honor, PFC Manning was a trained analyst who
5 understood how to assess the enemy and how the enemy assesses U.S.
6 Forces deployed. Although not a senior analyst, PFC Manning pulled
7 data and conducted analysis to assist the senior analysts with making
8 actionable conclusions. He was specifically trained on how the enemy
9 also conducted its own analysis and their capabilities to use
10 information about U.S. forces and the United States national security
11 and their fight against the United States.

12 Your Honor, PFC Manning's knowledge of and relationship
13 with WikiLeaks, including when that relationship began, is readily
14 apparent when all the evidence is considered together. What is
15 obvious is that Private First Class Manning pulled as much
16 information as possible to please Julian Assange and WikiLeaks in
17 order to get that information released and Julian Assange to have
18 found the right insider to mine SIPRNET and the NIPRNET databases.
19 PFC Manning began data mining of SIPRNET for intelligence relating to
20 WikiLeaks organization soon after arriving in theater. Or more
21 precisely, Your Honor, using his own words, right after Thanksgiving
22 timeframe of 2009. Those are the Lamo chats, Page 9. Your Honor,
23 Prosecution Exhibit 24, Mr. Johnson found a forensic -- forensically

1 found a file containing the contact information for Julian Assange
2 and WikiLeaks, the leader of WikiLeaks, on PFC Manning's external
3 hard drive. This is the contact information, Your Honor. According
4 to Mr. Johnson that file was created on 29 November '09. 29 November
5 '09. That is less than two weeks after having access to SIPRNET that
6 PFC Manning then began using his SIPRNET access to search Intelink
7 for WikiLeaks. We have heard testimony, Your Honor, that 3rd
8 Brigade, 82nd Airborne finished the rip TOA with 2/10 Mountain in
9 second week of November. Which means by the beginning of December,
10 that is the first two weeks that PFC Manning had access to SIPRNERT
11 without another Soldier sitting to his left or right during the
12 left-seat/right-seat ride.

13 Your Honor, Special Agent Shaver testified that PFC Manning
14 searched Intelinks for the term WikiLeaks more than 100 times
15 beginning on 1 December 2009. PFC Manning also searched for Iceland
16 related topics 25 times between January and April 2010. And a
17 handful of searches for Julian Assange in the same timeframe. You
18 can see all the searches for WikiLeaks, Your Honor, in Prosecution
19 Exhibit 81. Prosecution Exhibit 81, Your Honor, is the summary of
20 searches conduct by PFC Manning from his SIPRNET computer. And
21 according to Prosecution Exhibit 81, he conducted four searches for
22 the term WikiLeaks, Your Honor, for approximately every five days

1 that he was at FOB Hammer. Four searches for the term WikiLeaks
2 every five days, when he was at FOB Hammer.

3 Your Honor, one day after returning from R&R leave Private
4 First Class Manning compromised 10Reykjavik13 and other Department of
5 State information. WikiLeaks published the cable days later. In
6 response to the public release of that cable by WikiLeaks, Private
7 First Class Manning observed that the United States Ambassador to
8 Iceland was recalled or as he put it coldly, fired. That is in the
9 Julian Assange chat, Your Honor. Your Honor, why would PFC Manning
10 be searching for and so focused on Iceland as an United States Army
11 analyst focused on Southeast Baghdad, deployed in Iraq. Iceland
12 searches relate back to Julian Assange, who was in Iceland in
13 February 2010 and working on Icelandic Modern Media Initiative. PFC
14 Manning knew that WikiLeaks would be interested in matters pertaining
15 to Iceland. That he could -- That could guarantee him near real time
16 disclosures actually on the web, as fast as possible, for the world
17 to access. Your Honor, you heard evidence that PFC Manning used
18 other sources on the SIPRNET to gather information on WikiLeaks as
19 well. Just five days after returning from R&R leave PFC Manning
20 created an Open Source Center account on 20 February 2010. And he
21 used the same moniker, the same user name, Bradass87 that he used in
22 his Lamo chats. Your Honor, Prosecution Exhibit 139, 139 shows this
23 information. Special Agent Shaver testified that the same day PFC

1 Manning began using is OSC account to search for terms like WikiLeaks
2 in Iceland. Mr. Allen testified that the Open Source Center was a
3 website controlled by the Central Intelligence Agency containing
4 reports, translation and other information on unclassified
5 publications worldwide. But it is not just a website providing news
6 updates. Special Agent Shaver testified that PFC Manning searched
7 for WikiLeaks at OSC more than 20 times. And information on Iceland
8 more than 25 times. Your Honor, why else would PFC Manning actively
9 seek a new account on the Open Source Center? It's because Julian
10 Assange and PFC Manning discussed the Open Source Center and what is
11 available. Julian Assange stated that the OSC is, "something we want
12 to mine entirely." Your Honor, that's the Assange chats, Page 5,
13 Page 5. WikiLeaks' interest in the Open Source Center and Government
14 analysis is also confirmed by Most Wanted List, Prosecution Exhibit
15 109. Both databases and the defenses corresponding exhibit.

16 So what did PFC Manning learn about WikiLeaks through all
17 these constant searches? The United States Government, specifically
18 United States military, created three classified official U.S.
19 Government reports that focused on the threat WikiLeaks poses to the
20 national security, of the United States; the ACIC report, the NCIS
21 IRR and the C3 document.

22 First, Your Honor, the Army Counter-Intelligence report on
23 WikiLeaks. Between the ACIC website logs at Prosecution Exhibit 63,

1 63 and the Intelink log summary of the ACIC document, that Special
2 Agent Shaver created at Prosecution Exhibit 84, PFC Manning viewed
3 the ACIC report at least -- on at five separate occasions starting
4 from less than two weeks after access on SIPRNET on December 09'
5 through 7 March 2010. Your Honor, the ACIC report is Prosecution
6 Exhibits 45 and 46. Ms. Shelia Glenn testified that the purpose of
7 the ACIC document was to assess counter-intelligence threat to the
8 U.S. Army posed by WikiLeaks. As you look at Prosecution Exhibit 45,
9 Your Honor, please note, note that the first bullet under key
10 judgment of the ACIC report is that WikiLeaks represents a potential
11 force protection, counter-intelligence OPSEC and INFOSEC threat to
12 the United States Army. Essentially the same language PFC Manning
13 used when he taught the dangers of OPSEC violations. The second
14 bullet states, recent unauthorized releases of DoD sensitive and
15 classified information and documents provide foreign intelligence
16 services, foreign terrorists groups, insurgents and other foreign
17 adversaries potentially actionable information targeting U.S. forces.
18 Your Honor, the sixth bullet states that WikiLeaks most likely has
19 other DoD sensitive and classified information in its possession and
20 will continue to post the information on their website. Your Honor,
21 the report concluded that it must be presumed that foreign
22 adversaries will review and assess any DoD sensitive or classified
23 information posted to the WikiLeaks website. PFC Manning sent this

1 report to WikiLeaks with the intent that they be released to the
2 world. And it was, Your Honor.

3 Your Honor, second the intelligence information IRR, dated
4 23 March 2008, titled Internet Web Posting of classified and official
5 use only documents. Your Honor, this is Prosecution Exhibit 99.
6 First, Your Honor, what is IRR? An IRR is a report used by
7 intelligence professionals to report analysis of raw intelligence.
8 The purpose of this IRR was to raise the awareness of WikiLeaks as a
9 threat to national security. Special Agent Shaver testified that he
10 created Prosecution Exhibit 85. Prosecution Exhibit 85 was a summary
11 of the Intelink log information related to the IRR, and what later I
12 will talk about, Your Honor, a C3 document, a positive exhibit of the
13 Intelink result, the IRR and the C3 document.

14 MJ: What exhibit is that?

15 TC[MAJ FEIN]: Your Honor, it's Exhibit 85. This summary, Your
16 Honor, relates to the IRR and shows that PFC Manning downloaded this
17 report on 14 February 2010. And this could be found on Line 19, Your
18 Honor, of that exhibit, Line 19. The purpose of that IRR was to
19 raise the awareness of the threat caused by WikiLeaks to the
20 intelligence community. IRR discussed WikiLeaks is publicly
21 accessible internet website where leaked information including
22 classified and for official use only, can be published to the public
23 anonymously. The report described the threat of publishing Marine

1 Corps sensitive and classified information. It also detailed the
2 release of a Camp Delta SOP, that's GTMO, Your Honor, that was
3 unclassified, but for official use only and caused concerns within
4 the United States Government. Your Honor, PFC Manning also
5 compromised this document to WikiLeaks and that's clear by looking at
6 Line 5, Your Honor, Line 5 of PE 127. Prosecution Exhibit 127 is the
7 volumes.txt data, again the volumes.txt. That is when a CD was
8 burned on a SIPRNET, Roxio computer, it has the date and time of that
9 burn, the file name and folder structure. And that was created on
10 his personal MAC, because once you take a CD, that Roxio has used to
11 burn and put it into the MAC, a Macintosh computer it creates a log
12 file, and that's what volumes.txt is and that was Line 5, Your Honor,
13 of volumes.txt, for the IRR compromised.

14 Your Honor, third, the report dated 7 January 2010, that I
15 have already referenced is a C3 report. This is the MAR4 Europe trip
16 report discussing the Marine Corp monitoring the chaos communications
17 Congress that was held to 26 to 30 December 2009, in Germany. This
18 report, Your Honor, is Prosecution Exhibit 43. Your Honor, going
19 back to Prosecution Exhibit 85, the summary that Special Agent Shaver
20 created for the IRR and the C3 document, Line 12 of 85 shows that PFC
21 Manning downloaded the C3 document on 14 February 2010 as well.
22 Staff Sergeant Hosburgh the author of the document testified that the
23 document was posted to its units portal on SIPRNET and the address in

1 Line 12 was the address for that article. Staff Sergeant Hosburgh
2 also testified that the purpose of the report was to identify a
3 potential threat by WikiLeaks, particularly a security threat that
4 the U.S. may be vulnerable to. And then his analysis was how to fix
5 that vulnerability. The report discussed that WikiLeaks publicly
6 accessible internet website, where leaked information, including
7 classified information, can be published for public anonymously. On
8 Page 3 of Prosecution Exhibit 43 of the report, Staff Sergeant
9 Hosburgh, his analysis states WikiLeaks.org poses a large threat not
10 only from the external disclosure but also from the insider. The
11 insider within the Department of Defense. The insider would be able
12 to -- He said, the insider would be able to easily leak information
13 without fear of any direct individual repercussions. Your Honor, PFC
14 Manning compromised this document to WikiLeaks. That is clear by
15 looking at the file titled C3 on the volumes.txt printout,
16 Prosecution Exhibit 127.

17 Your Honor, through his constant searches and systematic
18 review of intelligence reports relating to WikiLeaks, Private First
19 Class Manning knew exactly what type of organization he was providing
20 classified information to; an organization that diverse elements of
21 the U.S. military reported was a threat to the national security
22 interest of United States Government. Your Honor, in addition to the
23 research that he conducted, you should also look to PFC Manning's

1 actual thoughts on WikiLeaks. His thoughts as captured in his chat
2 logs with Adrian Lamo and Julian Assange. These chat logs confirm
3 that PFC Manning saw WikiLeaks as anything but a journalistic
4 enterprise. PFC Manning saw WikiLeaks as an intelligence agency.
5 And that PFC Manning knew that WikiLeaks' goals and methods were
6 different than anything that could be characterized as traditional
7 journalism. Your Honor only needs to look as far as the chats to
8 Julian Assange to actually -- Prosecution Exhibit 123. PE 123, Your
9 Honor, is the chats -- the Assange chats. Page 9, Your Honor, PFC
10 Manning identified WikiLeaks as the first intelligence agency for the
11 general public. And in his own words, because it did everything an
12 intelligence agency does, minus the anonymous sourcing. Page 10 of
13 the chats, Your Honor, Julian Assange confirmed this evaluation and
14 noted that the original WikiLeaks About, described WikiLeaks as the,
15 "first intelligence agency of the people, better principled and less
16 parochial than any Government intelligence agency. Its only interest
17 in revelation of the truth". Even when discussing the substance of
18 the information that he compromised PFC Manning acknowledged what was
19 in the documents "would make it look more like journalist acquired
20 it". Your Honor, that's on Page 2. And what did Julian Assange say
21 about his operations to PFC Manning? He talked about giving, "an
22 Intel source here a list of things he wanted". That was Page 7. He
23 talked about outing another spy this afternoon. Page 11. He asked

1 PFC Manning if there's some way I can get you a crypto phone. Page
2 11, also. Crypto phone, a way to have secure communications with PFC
3 Manning in Southeast Baghdad. PFC Manning knew that anything he
4 disclosed to WikiLeaks would be published on the internet for the
5 world to see, and it was clear that PFC Manning wanted this
6 information to be in the public domain. The ACIC report, which PFC
7 Manning repeatedly read and compromised discusses the DoD classified
8 information that WikiLeaks released in the past and how WikiLeaks
9 posts all information they receive without editorial oversight. The
10 ACIC report also says that WikiLeaks aimed for maximum political
11 impact. The C3 document, which PFC Manning read, stated that the
12 goal of WikiLeaks was to promote openness. And Prosecution Exhibit
13 30, these are the chats, the Adrian Lamo chats, Your Honor, PFC
14 Manning admitted that he transmitted the documents to WikiLeaks he
15 couldn't let these things stay inside the system and inside of his
16 head, that's at Page 26. He also specifically admitted that the
17 information he sent to WikiLeaks, "belongs to the world of public
18 domain, because information should be free", that's Page 40. He also
19 stated about the Apache video. "event occurs in 2007, I watched
20 video in 2009 with no context to research, forward information to a
21 group of Freedom of Information Activists", Page 33. Your Honor, the
22 chats with Assange PFC Manning says, I told you before Government
23 organizations can't control information. The harder they try the

1 more violently the information wants to get out, that's Page 5, Your
2 Honor. When discussing WikiLeaks obtaining information from a public
3 figure's email account and posting that information, PFC Manning
4 says, well, I don't know what a posting of a list of Glenn Beck's
5 emails will do, but, hey, its transparency, Page 5.

6 Your Honor, setting aside whether sending classified
7 information and documents to established journalistic enterprises
8 like New York Times or Washington Post would be a crime. That is
9 not what happened in this case under these facts. PFC Manning
10 deliberately and intentionally disclosed this compromised information
11 through WikiLeaks to the world knowing that WikiLeaks would release
12 the information in the form they received it and that is, Your Honor,
13 that is exactly what happened in this case. WikiLeaks was merely the
14 platform which PFC Manning used to ensure all the information was
15 available for the world, including the enemies of the United States.

16 Your Honor, Defense offered Professor Benkler as an expert
17 in the networked forth estate, a term he coined. Professor Benkler's
18 ultimate opinion is based on bias, misinformation and a flawed
19 methodology. It provides no utility to this Court because regardless
20 of his conclusions, Your Honor, Professor Benkler can give you no
21 insight into what PFC Manning was thinking at the time he was
22 deployed. Professor Benkler based his opinions largely on a review
23 of articles, news articles, post July 2010, several months after PFC

1 Manning was placed in pretrial confinement. However, if there's any
2 utility to Professor Benkler's testimony it was in his answers to
3 several questions posed to him on journalistic enterprises, in
4 general questions that used PFC Manning's own words. Professor
5 Benkler agreed that a transparency movement is not a journalistic
6 enterprise. He agreed that information activist is not a
7 journalistic enterprise. He agreed there was a difference between
8 activism and journalism. WikiLeaks, an organization with a mission
9 for transparency of U.S. Government classified information for the
10 purpose of maximizing political impact. Information -- Well,
11 essentially, Your, Honor information anarchists. That failed to meet
12 even Professor Benkler's criteria for a journalistic enterprise.
13 Your Honor, Professor Benkler testified that his main sources of
14 information were the news articles he reviewed, which he then
15 assigned values to in some way that's not entirely transparent. And
16 he used some critiques he received from Julian Assange when he
17 posted his draft article on his personal web page. Professor Benkler
18 conducted no independent research on any aspect of WikiLeaks,
19 including the ACIC reports, or WikiLeaks, nor did he interview anyone
20 with firsthand knowledge of WikiLeaks. He clearly had a point of
21 view and strong opinions. But Professor Benkler did not have access
22 to the evidence in this case revealing what PFC Manning actually knew
23 and thought of the WikiLeaks organization, nor did he have access to

1 the evidence that demonstrated how WikiLeaks actually operated
2 outside the news report he analyzed and researched. Reporting that
3 any knowledge was very poor at the time. As an example of Professor
4 Benkler's faulty process he concluded that WikiLeaks acted
5 responsibly by characteristic of a traditional news media when they
6 released hand selected or redacted Department of State cables in
7 2010. Professor Benkler spent much time testifying that 80 percent
8 incorrectly reported that WikiLeaks released over 25,000 Department
9 of State cables onto the internet at that time, when he counted only
10 272 cables based on other news reports, correlating news reports. He
11 further concluded that WikiLeaks continued to follow that model in
12 all of their releases. Had Professor Benkler actually conducted
13 independent research outside of news reports, such as contacting
14 WikiLeaks, editors of newspapers, or any other person with firsthand
15 knowledge, he would have quickly realized that WikiLeaks actually did
16 release 251,287 purported cables on the internet in unredacted form,
17 as well as other databases of information that PFC Manning
18 compromised. Your Honor, regardless of what Professor Benkler, the
19 defense, or the United States believes WikiLeaks is or is not, the
20 evidence is clear that PFC Manning believed the organization to be
21 his conduit to release as much information as he could obtain. But
22 why did he choose WikiLeaks? He chose WikiLeaks because they sought,
23 almost exclusively, from the United States, United States Government

1 classified information, and that is what PFC Manning could provide
2 them as an Intelligence Analyst on SIPRNET. The three intelligence
3 reports, the ACIC, IRR, and C3 documents all said that WikiLeaks
4 sought any type of classified information as well as PII and other
5 operational data. In chats with Julian Assange PFC Manning showed
6 his understanding that WikiLeaks was seeking to publish Government
7 controlled information, sent to them by him and other donors.

8 Your Honor, that shows that WikiLeaks produced a Most
9 Wanted List available on its website. That it identified to the
10 reader the types of information that they sought, to gather and
11 disclose in the name of transparency information anarchy. Looking at
12 both versions of the Most Wanted List, the sorted list Prosecution
13 Exhibit 109 or 110 and the Defenses unsorted list, Defense Exhibit
14 Foxtrot or Defense Exhibit Papa. The largest section on the Most
15 Wanted List by several orders of magnitude, Your Honor, was the
16 section devoted to the United States, specifically the section
17 devoted to military intelligence documents on Prosecution Exhibits
18 109 and 10 in bulk databases on Defense Exhibits Foxtrot and Papa.
19 Less than two weeks after PFC Manning had regular access to SIPRNET,
20 PFC Manning began using Intelink to search for items on that Most
21 Wanted List. Special Agent Mander went through those items and
22 compared them to the searches on Intelink. On Prosecution Exhibit 81
23 the Intelink search summary, you will see the searches on 28

1 November, 29 November, 30 November, and 8 December '09, that
2 correspond with items on the Most Wanted List. None of these have
3 any relationship, Your Honor, to a United States Army Intelligence
4 Analyst assigned to Southeast Baghdad focused the Shia threat group.
5 Specifically, Your Honor, by 28 November 2009, Thanksgiving, PFC
6 Manning was searching for information related to GTMO and
7 interrogations. Prosecution Exhibit 81 is the summary of those. The
8 Most Wanted List in 2009 shows that WikiLeaks wanted CIA
9 interrogation videos. PFC Manning searched for retention of
10 interrogation videos. The term, his search term, retention of
11 interrogation videos on 28 and 29 November 2009. Your Honor, that's
12 Lines 28 through 32 of PE 81, Lines 28 through 32 of PE 81. PFC
13 Manning continued searching for detainee videos on 9 December.

14 MJ: I'm sorry, you said Lines what?

15 TC[MAJ FEIN]: I'm sorry, Your Honor, the Retention of
16 interrogation videos on Lines 28 through 32 of PE 81. Your Honor,
17 PFC Manning continued searching for detainee videos on 9 December.
18 That's Lines 115 through 116, 115 through 116. He conducted more
19 searches for interrogation videos on 17 December, those are Lines 154
20 through 155, 154 through 155. He conducted another similar search
21 months later at Lines -- or Line 283. Your Honor, the Most Wanted
22 List of 2009 also shows that WikiLeaks wanted detainee abuse photos.
23 Their term. PFC Manning searched for the term detainee abuse on 29

1 and 30 November 2009, that's at Lines 44 through 46, 44 through 46,
2 and also Line 63. The Most Wanted List showed that WikiLeaks wanted
3 Camp Delta, Guantanamo Standard Operating Procedures. And Camp
4 Delta, Guantanamo Interrogation Standard Operating Procedures, 2003
5 through 2009. Your Honor, PFC Manning searched for Guantanamo
6 Detainee Operations, JTF, GTMO SOP and SOP Interrogation, among
7 others, on 8 December. This is at Lines 101 through 112. Private
8 First Class Manning continued the searched throughout his deployment.
9 On 15 March, Private First Class Manning searched Intelink for
10 information on GTMO, and ISN, and search. That was on Lines 470
11 through 474, 470 through 474.

12 Your Honor, PFC Manning spent hours, hours in late November
13 2009, and early December 2009, searching for topics that only related
14 to one mission, finding and disclosing what WikiLeaks wanted. He was
15 not a naive Soldier simply affected by an event on 24 December 2009,
16 an event that only Chief Ehresman vaguely remembers, not even the
17 exact date, but rather PFC Manning was deliberately taking advantage
18 of the trust and access to classified systems in pursuit of his own
19 objectives. Your Honor, think back to one of the first things that
20 PFC Manning said to Adrian Lamo in the chats. If you had
21 unprecedeted access to classified networks, what would you do? PFC
22 Manning answered that question with his actions. He searched for as
23 much information that he knew would guarantee his fame, information

1 that WikiLeaks wanted to publicly release. Your Honor, although he
2 kept searching for information on WikiLeaks Most Wanted List, PFC
3 Manning also wanted to ensure he would not get caught. So why did
4 PFC Manning choose to disclose classified and other closely held
5 information through WikiLeaks and not solely by himself for the world
6 to have? Although he wanted the widest notoriety for his criminal
7 enterprise, he did not want to get caught, Your Honor. PFC Manning
8 anticipated needing to, "slip into the darkness for a few years, let
9 the heat die down." At least that's what he told Julian Assange on
10 the chats on Page 5. In his own cover letter on the SD card,
11 Prosecution Exhibit 42, he instructed WikiLeaks to protect their
12 source, protect him. The ACIC report in the IRR, informed PFC
13 Manning as early as December '09, that WikiLeaks used anonymous
14 methods to post information online. The ACIC report detailed that
15 WikiLeaks uses its own software which can make it difficult for
16 foreign governments, law enforcement agencies, and foreign business
17 to determine where the leaked document was and who is responsible for
18 leaking that document. Your Honor, the IRR, the IRR similarly
19 described WikiLeaks as an uncensorable Wikipedia for untraceable mass
20 document leaking analysis. The IRR included that the WikiLeaks
21 website provides suggestions for the anonymous submission of material
22 and several methods of submitting material for inclusion to an online
23 database.

1 Your Honor, right now might be a good time for a brief
2 recess or I could keep going.

3 MJ: All right. How much longer do you anticipate your argument
4 is going to be? I'm looking at whether we should recess for lunch.

5 TC[MAJ FEIN]: I can probably get through one more section and
6 then recess for lunch. Overall I anticipate two more full hours.

7 MJ: Why don't we take a 15-minute recess, get through the next
8 session and then we'll take a lunch break.

9 TC[MAJ FEIN]: Yes, ma'am.

10 MJ: Any objection to that?

11 CDC[MR. COOMBS]: I would like to know maybe how long the
12 section is. If the next session is an hour, I would rather break for
13 lunch now.

14 TC[MAJ FEIN]: Ma'am, it's not, and actually, I could probably
15 get to the next session, right now it is the first set of data that
16 was compromised, and it will probably last 15 minutes, and then we
17 could break. The section after that is lengthy, Your Honor, after
18 the next section.

19 MJ: All right. Mr. Coombs, do you have any grave objection
20 here to taking a quick 15-minute recess, finishing up with that 15
21 minutes and then taking a lunch break after that?

22 CDC[MR. COOMBS]: No, objection, Your Honor.

1 MJ: All right. Why don't we do it that way. Court is in
2 recess until 5 after 12.

3 [The court-martial recessed at 1151, 25 July 2013.]

4 [The court-martial was called to order at 1211, 25 July 2013.]

5 MJ: Court is called to order. Let the record reflect all
6 parties present when the Court last recessed are again present in
7 court. Major Fein.

8 TC[MAJ FEIN]: Yes, ma'am. The first dataset is the Gharani
9 airstrike video, B22PAX.zip. Your Honor, this case starts with
10 Private First Class Manning's admission to Mr. Lamo that he had
11 helped WikiLeaks right after Thanksgiving 2009. How did PFC Manning
12 begin helping WikiLeaks? It's by transmitting the video file charged
13 in Specification 11, of Charge II. Specification 11 of Charge II.
14 Your Honor, what we know about the Gharani airstrike video and why
15 is it important? PFC Manning admitted to Adrian Lamo that he gave it
16 to WikiLeaks. That's in the Lamo chat logs, Page 46. We know that
17 Jason Katz, an employee of Brookhaven National labs had a forensic
18 copy on his computer dated 15 December 2009. We know that the video
19 was encrypted as it sat on the USCENTCOM SharePoint server. We know
20 that WikiLeaks tweeted on 8 January 2010, that they needed assistance
21 with decrypting a video of a CIVCAS incident. Your Honor, these are
22 undisputed facts. So why, Your Honor, is the defense fighting so
23 hard to disprove this timing. It's because the evidence destroys,

1 Your Honor, their narrative that PFC Manning witnessed an event that
2 helps explain his actions rather than accepting the facts as they lay
3 that PFC Manning was only interested in disclosing classified
4 information to the world through WikiLeaks. He started within weeks
5 of having access to SIPRNET. And he chose a video, he chose a video
6 that he could not even watch, a password protected video. PFC
7 Manning accessed this video before 1 December 2009, on the CENTCOM
8 SharePoint server. He transferred the video to his personal Mac and
9 uploaded to WikiLeaks before 15 December 2009. So that it could land
10 in the hands of a person willing to assist WikiLeaks with a mass
11 decryption effort.

12 MJ: Can you speak a little more slowly?

13 TC[MAJ FEIN]: Yes, Ma'am. Would you like me to repeat it?

14 MJ: Yes.

15 TC[MAJ FEIN]: Ma'am, Private First Class Manning accessed this
16 video before 1 December 2009, and that was on the CENTCOM SharePoint
17 server. He transferred the video to his personal Mac and uploaded it
18 to WikiLeaks before 15 December 2009, and he did that, Your Honor, so
19 it could land in the hands, well essentially of Jason Katz as I
20 previously discussed to assist in the decryption effort. Your Honor,
21 how do we know this? First, Special Agent Shaver testified that
22 BE22PAX.zip, that file name contained in the video file within zip
23 file called BE22PAX.WMD. WMD is the Windows file type for a Windows

1 movie video file. That video was located in the USCENTCOM SharePoint
2 site with documents that were part of the Farah/Gharani
3 investigation. According to multiple USCENTCOM subject matter
4 experts the Farah/Gharani investigation was focused on investigating
5 the circumstances surrounding a civilian casualty, CIVCAS, incident.
6 Your Honor, Prosecution Exhibit 65 is the USCENTCOM SJA Farah folder
7 contents. That's Prosecution Exhibit 65. In that exhibit, Your
8 Honor, you'll see the file BE22PAX.zip, which is also listed on the
9 Charge Sheet, is under the folder called videos. Your Honor,
10 multiple CENTCOM witnesses testified that the video reveals
11 operational activities, including troop movement, weapon systems and
12 specific information contained on the heads up display. In
13 classified testimony, through a stipulation of expected testimony
14 that the video reveals other details of military preparedness. Your
15 Honor, what we know forensically about PFC Manning in the late
16 November 2009 and early December 2009 time period? Your Honor,
17 between 29 November 2009 and 9 December 2009, PFC Manning searched
18 several times on SIPRNET, Intelink specifically for the terms SJA and
19 CENTCOM. That's in Prosecution Exhibit 81. Those searches would
20 have brought PFC Manning to the USCENTCOM SJA website, the legal
21 website, Intelink logs only shows searches and redirects, as you
22 heard testimony from Special Agent Shaver, to other websites. They
23 don't actually account for activity, that's on a separate server.

1 The CENTCOM SharePoint server was a separate server. Mr. Moiser, the
2 senior paralegal for the USCENTCOM SJA Office and the administrator
3 of the USCENTCOM SharePoint page, he testified the Farah
4 investigation and its videos were located on the SIPRNET SharePoint
5 server.

6 Your Honor, Prosecution Exhibit 91. 91 is a copy of the
7 portal web page. It's actually five screen shots of the portal
8 webpage page, Your Honor, and note, Your Honor, when you review
9 Prosecution Exhibit 91, that across the top each of the web pages is
10 a red banner. And that red banner, Your Honor, has "SECRET"
11 approximately five times spread across the top of that page on all
12 five slots. And what Prosecution Exhibit 91, they are the screen
13 shots of all the different folders within the SJA investigations
14 SharePoint site that ultimately leads to videos BE22PAX.zip. Your
15 Honor, that banner put any visitor, including PFC Manning, on notice
16 that the information on that website should at least be treated
17 classified. Special Agent Shaver found a forensic duplicate, Your
18 Honor, of BE22PAX.ZIP on Jason Katz's computer. Although the file he
19 found was named B.zip. Jason Katz, an employer of the Brookhaven
20 National Laboratory created B.zip on 15 December 2009, and had his
21 computer plug into the lab's super computer, which is capable of
22 breaking into or decrypting files.

1 Your Honor, Prosecution Exhibit 32 is a Tweet from
2 WikiLeaks on 8 January 2010, which states, have encrypted videos of
3 U.S. bomb strikes on civilians with a web page, says Afghan, we need
4 super computer time. That was on 8 January 2010. Your Honor, this
5 WikiLeaks Tweet, the encrypted file on Jason Katz's computer, which
6 is connected to the super computer, and PFC Manning's admissions, all
7 lead to one conclusion. The transmission of the video occurred prior
8 to 15 December 2009. And based on the evidence available to the
9 Court, there's no other reasonable explanation. And here's why, Your
10 Honor. First, Special Agent Shaver, Mr. Johnson, the other forensic
11 examiner, testified they did not find any remnants or evidence of the
12 Farah/Gharani videos on any of the computers they examined. And we
13 know that nothing was recovered either from his personal Mac before
14 31 January 2010, or on his SIPRNET computers from March 2010, because
15 they were reimaged. And from the personal Mac, because he
16 forensically wiped his computer using a seven pass forensic wipe.
17 PFC Manning did that. Second, Your Honor, Special Agent Shaver
18 testified that when he reviewed the USCENTCOM Share Point server
19 logs, so the actual server logs that housed the videos, that's
20 Prosecution Exhibit 108, 108. The log started on 1 December 2009,
21 and they captured all the access activity of the files in the
22 Farah/Gharani folder that sat on the CENTCOM website. Those logs,
23 Your Honor, stared on 1 December 2009. After 1 December 2009, the

1 CENTCOM server logs showed that the charged video was only accessed
2 twice. Once on 28 January 2010, and again on 23 February 2010. Now
3 first, Your Honor, PFC Manning could not have accessed the video on
4 28 January 2010 because he was in Boston on R&R leave. PFC Manning
5 did not access the video on 23 February 2010. The reason we know
6 that forensically, Your Honor, is because of the Centaur logs. The
7 Centaur logs that captured Netflow data between -- for this case
8 between PFC Manning's SIPRNET computers and other destinations do not
9 show any connections to the CENTCOM SharePoint server on 23 February
10 2010.

11 Now, Your Honor, note at Prosecution Exhibit 161, that's
12 161, Special Agent Shaver testified that he created this summary,
13 Prosecution Exhibit 161 that shows all the missing dates from the
14 Centaur logs. So his testimony was that the Centaur logs were
15 incomplete, but he testified that certain days he knew were complete
16 because there were some activity that showed and other days it was
17 completely void. At Line 58 of Prosecution Exhibit 161 showed that
18 23 February 2010, was recorded within Centaur and not missing from
19 the logs. And there was no entry from the Centaur logs, as Special
20 Agent Shaver testified, between PFC Manning's SIPRNET computer and
21 the CENTCOM portal on 23 February '10.

22 Third, at trial the defense referenced the video file
23 titled TGT1.WMV. And you heard testimony that it was located in a

1 folder named Farah, a shared drive at FOB Hammer. That's TGT1.WMV,
2 Windows Movie video file, Special Agent Shaver testified about the NT
3 user file. This file, Your Honor, on a Microsoft Windows computer,
4 keeps track of the last ten times a file type is opened. A file type
5 such as a WMV, a Windows Movie video file. Special Agent Shaver
6 testified that TGT1.WMV was listed in the NT user file under the WMV
7 file type on PFC Manning's SIPRNET computer. Your Honor, this means
8 that PFC Manning opened TGT1.WMV on his SIPRNET computer. The issue
9 here, Your Honor, is that TGT1.WMV could not be BE22 -- excuse me,
10 Your Honor, BEPAX22.WMV because that video, the charged video was an
11 encrypted zip file. Thus, unable to be opened and viewed by PFC
12 Manning. And could not show up in the NT user file as a WMV viewed
13 file.

14 Your Honor, fourth, Prosecution Exhibit 128. Prosecution
15 Exhibit 128 is the summary of all the Farah related activity in the
16 index.dat file on PFC Manning's SIPRNET computer. That's Prosecution
17 Exhibit 128. Now, Your Honor, Special Agent Shaver testified in the
18 index.dat records, that file records the dates and times that files
19 are accessed either locally or remotely through a web browser for
20 Windows. He also testified on 10 April 2010, the day PFC Manning
21 downloaded the entire investigation, less the videos, from the
22 CENTCOM SharePoint site, there was no video file or zip file
23 reflected in the activity on his SIPRNET computer. All the other

1 files were downloaded but not a zip file or WMV file. Your Honor,
2 look at Prosecution Exhibit 129. That is the summary of the CENTCOM
3 SharePoint logs on 10 April '10. So, first, Your Honor, you have the
4 Index.dat, that's Prosecution Exhibit 128, that shows the activity
5 PFC Manning's computer connecting to SharePoint logs and then you
6 have Prosecution Exhibit 129 next in line, which a summary of the
7 actual SharePoint log from the CENTCOM website. And that activity on
8 10 April 2010. The CENTCOM logs show the other side of the download
9 transaction. The CENTCOM site. Every document downloaded from the
10 CENTCOM SharePoint site on 10 April '10, that is associated with
11 Farrah is located in that summary. Most importantly, Your Honor,
12 there is no video or zip file downloaded during that time on those
13 logs also. Your Honor, the video must have been downloaded prior to
14 1 December 2009, and transmitted no later than 15 December 2009. Your
15 Honor, PFC Manning knew his video along with the other videos were
16 classified. Although the file name did not have an annotation, the
17 file was located on SIPRNET with a SECRET banner across the top of
18 his screen. The video relates to the national defense of the United
19 States, Lieutenant Commander Hoskins and Lieutenant Colonel Nehring
20 both testified that video contained the type of information which
21 could cause serious harm to national security and thus should be
22 SECRET. Vice Admiral Robert Harward, the USCENTCOM Deputy Commander,
23 the duly appointed original classification authority, testified that

1 the charge video was properly classified at the Secret level at the
2 time of is compromise. And, Your Honor, the United States Government
3 has never made this video available to the public as part of a 15-6
4 or any other.

5 Your Honor, this time would be a good time for a lunch
6 recess.

7 MJ: All right. If we come back at 1330 does that work for
8 everybody?

9 TC[MAJ FEIN]: Yes, ma'am.

10 CDC[MR. COOMBS]: Yes, Your Honor.

11 MJ: All right. Court is in recess until 1330.

12 **[The court-martial recessed at 1226, 25 July 2013.]**

13 **[The court-martial was called to order at 1344, 25 July 2013.]**

14 MJ: Court is called to order. Let the record reflect all
15 parties present when the Court last recessed are again present in
16 court. Major Fein?

17 TC[MAJ FEIN]: Your Honor, the next dataset CIDNE-Iraq, CIDNE-
18 Afghanistan sets. These go to Specifications 4, 5, 6, and 7, of
19 Charge II. Your Honor, essentially, to use PFC Manning's own Words,
20 the inventory of SIGACTS that he released to WikiLeaks is, "one of
21 the more significant documents of our time because it reveals the
22 true nature of the 21st century asymmetric warfare". That's at
23 Prosecution Exhibit 42. The document that was included with the

1 CIDNE-I and CIDNE-A SIGACTS on the SD card. To truly understand why
2 PFC Manning himself considered these SIGACTS so important begs the
3 question: What is a SIGACT? By definition, a SIGACT is a report of
4 significant activity captured in theater. SIGACTS capture enemy
5 activities, our responses to enemy activity, and our TTPs to win our
6 wars. For example, if the military convoy were hit by an IED, that
7 event would be captured in a SIGACT. Your Honor, what else would be
8 captured in a SIGACT? Where and when the attack happened, which unit
9 was involved, the type of IED employed, how successful the attack
10 was, whether there were any casualties, which enemy organizations are
11 responsible for the attack, what tactical intelligence we gathered
12 from the attack and what steps we took in response to the attack.
13 Simply put, Your Honor, SIGACTS detail how we defeat our enemies and
14 what methods the enemies use to harm us.

15 Your Honor, how do we use SIGACTS? Mr. Hall testified that
16 commanders in the field use SIGACTS every day to make tactical
17 decisions. Mr. Hall testified that Intelligence Analysts are often
18 tasked to provide the commander with insights into what events have
19 taken place along, for example, a main supply route over a certain
20 period of time. Intelligence Analysts pull all SIGACTS taking place
21 on that supply road. They plot those events on a map so that the
22 commander can visualize the enemy and what the enemy is doing or not
23 doing. These aids help the commander understand the enemy trends and

1 decide whether to continue using that supply route or redirect the
2 convoy in a different direction. Commanders use SIGACTS every day,
3 Your Honor, to make decisions to defeat the enemy and protect our
4 Soldiers. As Captain Fulton testified, the commander of 2/10
5 Mountain relied on her predictive analysis and he was no different.
6 Captain Fulton, on a weekly basis, briefed Colonel Miller on enemy
7 trends in their AOR. Those enemy trends were identified based off of
8 SIGACTS pulled and sorted by PFC Manning. Those SIGACTS helped
9 Colonel Miller decide how to employ his forces, protect his
10 individual Soldiers, and how to defeat the enemy within the 2/10
11 Mountain AOR. Sergeant First Class Anica, he also gave the Court an
12 example of how the date of a SIGACT does not necessarily correlate to
13 its value to commanders. He testified about an event that happened
14 during a previous deployment where two Soldiers were captured by
15 enemy forces. Sergeant First Class Anica explained how the unit
16 reviewed SIGACTS for the past 3 to 4 years in order to determine what
17 enemy was located in that area and what tactics, techniques and
18 procedures those -- that enemy in that area employed in order to
19 figure out where those two Soldiers could be found. Those SIGACTS
20 help the unit determine who was responsible for the captured and
21 where they were being held captive. Sergeant First Class Anica
22 testified that he trained PFC Manning prior to the deployment on the
23 use of SIGACTS and how critical they are, even older SIGACTS and how

1 the enemy understands our forces. Why do we store SIGACTS in
2 SIPRNET? SIGACTS are only available on SIPRNET because they're an
3 invaluable resource that if released, Your Honor, to the enemy would
4 not only teach them about our TTPs but also reveal what we know about
5 them. Each intelligence professional from 2/10 Mountain testified to
6 this point. They all testified that with this tactical insight, the
7 enemy can adjust and become more successful in carrying out their
8 attacks. Why do we safeguard are tactical reports? Because those
9 reports help us to make all of our tactical decisions necessary to
10 defeat our enemies. The value of those tactical reports directly
11 correlates to our exclusive use and benefit of this information.
12 This is the type of information PFC Manning disclosed to WikiLeaks
13 knowing that terrorist organizations use WikiLeaks to gather
14 intelligence such as the Marine Table of Organization and Equipment.
15 The TO&E for the Marine Corps. This is not purely historical data
16 without any value as the defense has argued. Instead, Your Honor,
17 this is data -- this data is extremely valuable for our commanders as
18 part of the military decision-making process to make real-time
19 decisions that ultimately save our lives. Furthermore, Your Honor,
20 the value of the tactical information to our enemies is without
21 question -- well, is it's without question the value, especially
22 given the fact that UBL himself, Usama bin Laden himself, asked for
23 the information and received it, the SIGACTS from the CIDNE database

1 for Afghanistan. And now, because of PFC Manning, this is the type
2 of tactical information that was and is in the hands of UBL on the
3 day he died and currently in the hands of all enemies of the United
4 States.

5 Your Honor, the Combined Information Data Network Exchange
6 or CIDNE, is the direct reporting system used by all forces within
7 the USCENTCOM. Mr. Bora, the CIDNE program manager, he testified
8 that CIDNE's used by USCENTCOM and subordinate commands to separately
9 track our combat operations in Iraq and then also track in
10 Afghanistan. Your Honor, you heard testimony that a significant
11 activity generally consists of key leader engagements, mission report
12 logs which track troop movements, activities, and engagement of
13 hostile forces, reports and responses for missions, focused on duty,
14 status whereabouts and known DUSTWUN, which includes names of PII,
15 captured or missing Servicemembers and the TTP that we employ to
16 locate our missing Servicemembers. Captain Lim testified that
17 SIGACTS also include the names of detained persons and local
18 nationals, some of whom made these sources for neighboring U.S.
19 source forces, and information relating to battle damage, which if
20 released could give the enemy insight into how successful certain
21 weaponry they use against the United States is.

22 Your Honor, within seven weeks of having access to SIPRNET,
23 PFC Manning deliberately chose to download and steal a portion of the

1 CIDNE-I Iraq database containing more than 380,000 SIGACTS and a
2 portion of the CIDNE-A Afghanistan database containing more than
3 90,000 SIGACTS. PFC Manning had extensive experience dealing with
4 SIGACTS both at Fort Drum and FOB Hammer. At Fort Drum, Sergeant
5 First Class Anica testified that PFC Manning provided weekly
6 briefings based off SIGACTS, based off also their anticipated need
7 because they were going to employ first Afghanistan and then Iraq.
8 At FOB Hammer, members of the PFC Manning's unit testified that
9 Private First Class Manning had constant exposure to SIGACTS in their
10 AOR, particularly the SIGACTS related to IEDs. So what did Private
11 First Class Manning do with these trained skills? Starting in late
12 December 2009, he began exporting hundreds of thousands of SIGACTS
13 from 2004 to 2009. That's six years or 72 months worth of SIGACTS
14 from two different databases. The CIDNE databases contained an
15 export feature to allow Intelligence Analysts to export SIGACTS in
16 30-day increments as part of their study of enemy trends over a
17 period of time. Therefore, in order to export the SIGACTS, Private
18 First Class Manning had to export them in monthly increments. Put
19 another way, he had to click the export to classic Excel function on
20 the bottom right of the CIDNE screen. He had to push it 72 times per
21 database to accomplish this feat. That's a total of 144 times he had
22 to click export to take all the SIGACTS from CIDNE-A and CIDNE-I
23 databases at this time, the first part of January. Pulling the

1 SIGACTS from the CIDNE-Afghanistan database even required more
2 diligence and advanced understanding of the networks on SIPRNET.
3 Because Private First Class Manning was stationed in Iraq at the
4 time, deployed in Iraq, the main CIDNE-Afghanistan database was
5 inaccessible in Afghanistan, a specific design limitation. Mr.
6 Hoeffel testified that CENTCOM maintained CIDNE servers at CENTCOM
7 Headquarters in Tampa as well as in both theaters of operation in
8 Iraq and Afghanistan. The CIDNE-Iraq and CIDNE-Afghanistan servers
9 do not share the same information. The CIDNE-Afghanistan database is
10 only available to users hooked up to servers located in Afghanistan
11 or to the backup server in Tampa. Your Honor, the defense seems to
12 imply that PFC Manning downloaded SIGACTS to create local backup
13 disks. In case the SIPRNET or DCGS-A doesn't work, the defense has
14 presented no evidence that this actually occurred. And, in fact, the
15 evidence for CIDNE-A is to the contrary. Special Agent Shaver
16 testified that PFC Manning's computer, SIPRNET computer connected
17 with the CIDNE-Afghanistan server in Tampa between 1 and 7 January
18 2010, the Centaur logs, again measuring net flow data captured this
19 activity that's at Prosecution Exhibit 152, Your Honor, 152. The
20 logs also show that the only times, the only times, Your Honor, that
21 PFC Manning's computer connected to the CIDNE-A servers in Tampa were
22 between 1 and 7 January 2010, and no other time in the 103 days
23 recorded in the Centaur logs. Mr. Hoeffel testified that PFC Manning

1 pulled the last batch of SIGACTS from the CIDNE-Iraq database on 3
2 January 2010, on 3 January 201. He also testified that PFC Manning
3 pulled the batch of SIGACTS from CIDNE-A database four days later, on
4 7 January 2010, 7 January 2010. Private First Class Manning stored
5 the CIDNE databases in a password protected folder named
6 yadda.tar.bz2.NC. You heard from Special Agent Shaver, and that was
7 on an SD card that was later found and admitted as PE 92. Special
8 Agent Shaver also testified that this folder on the SD card was
9 created on 30 January 2010. He testified that he was able to view
10 the content of this folder by using the same password PFC Manning
11 provided Adrian Lamo on his chats. He testified that within the
12 yadda folder there were three different files in that encrypted
13 file. The portions of the CIDNE-I and CIDNE-A databases containing
14 the SIGACTS were stored under the file names Iraq_events.CSV --
15 excuse me, Your Honor, IRQ_events.CSV and AFG_events.CSV. These are
16 two CSV files which you've heard testimony is essentially the same as
17 an Excel spreadsheet. Special Agent Shaver testified that the file
18 name IRQ_events.CSV was last written on 5 January 2010, and the
19 Afghanistan file was written three days later, 8 January 2010.

20 Your Honor, we knew that PFC Manning took his SD card
21 containing more than 470,000 SIGACTS from the CIDNE-A and CIDNE-I
22 databases with him on R&R. Special Agent Mander testified that SD
23 card was found at PFC Manning's aunt's house at Potomac, Maryland

1 where he stayed during R&R. It was during this time on R&R when PFC
2 Manning transferred the SIGACTS from his personal computer to
3 WikiLeaks and then his SD card -- onto his SD card for safekeeping.
4 Your Honor, the evidence shows that the transmission occurred prior
5 to 1 February 2010, while PFC Manning was in Boston visiting friends.
6 The transfer to WikiLeaks occurred prior to 1 February, Your Honor,
7 2010, while PFC Manning was in Boston. How do we know this? Because
8 PFC Manning forensically wiped his computer and reinstalled the
9 operator system on 31 January 2010. Prosecution Exhibit 126 Alpha
10 and 1026 Bravo are the install logs from PFC Manning's personal
11 computer.

12 MJ: What was the prosecution exhibit number?

13 TC[MAJ FEIN]: Yes, ma'am. It is Prosecution Exhibit 12 Alpha
14 and Bravo, 126 Alpha and Bravo. Private First Class Manning's aunt,
15 Debra Van Alstyne testified that while on R&R leave PFC Manning left
16 Potomac, Maryland on 25 January and returned on 1 February 2010. The
17 disk utility log from PFC Manning's personal computer, that's
18 Prosecution Exhibit 125, Prosecution Exhibit 125 and specifically
19 Lines 78 through 86; 78 through 86, show PFC Manning executing a 7-
20 pass disk erase. After 3 hours and 48 minutes it was complete. Not
21 forensically wiping his machine on 31 January 2010, seven times. Not
22 one time, Your Honor, seven times, and after 3 hours it was complete.
23 Mr. Johnson testified that, based off his review of this log, that

1 PFC Manning successfully wiped all of the evidence that had been
2 deleted on his personal computer on this date. This occurred, Your
3 Honor, while he was still in Boston.

4 Your Honor, Defense Exhibit Juliet, Defense Exhibit Juliet
5 is the forensic report for PFC Manning's personal Macintosh computer.
6 Prosecution Exhibit 179. Prosecution Exhibit 179 are all the
7 attachments and enclosures to that report. Other than the one SIGACT
8 that Special Agent Shaver was able to recover from March 2010, on his
9 personal Mac, there are no other SIGACTS on the computer, not a
10 single remnant of 470,000, SIGACTS from 30 January 2010, and forward
11 -- excuse me -- 31 January 2010, on his personal computer. The only
12 reasonable explanation for this, Your Honor, is that PFC Manning
13 erased any evidence of the transmission of the SIGACT to WikiLeaks
14 when he wiped the free space on his computer on 31 January 2010.
15 Otherwise, some remnant of the 470,000 SIGACTS would likely be on his
16 computer like the volume.txt and other recovered documents. The
17 transmission had to have occurred prior to 31 January 2010. Once
18 returning from Boston, PFC Manning left that SD card along with other
19 possessions of his at his aunt's house in Maryland, and that's after
20 disclosing the SIGACTS to WikiLeaks while he was in Boston. Located
21 in that same encrypted file with the SIGACTS on the SD card, PFC
22 Manning wrote and stored a document he titled readme.txt admitted
23 into evidence as PE 42.

1 Your Honor, displayed on the screen is PE 42. PFC Manning
2 noted to WikiLeaks, or note to WikiLeaks, excuse me, explaining the
3 items of historic significance, although he ignored his training and
4 experience when it came to compromising classified information. It
5 is clear he applied the same training and experience to identify the
6 SIGACTS, the SIGACTS themselves were historical significance and
7 winning compilation was one of the more of significant documents of
8 our time. Your Honor, why did PFC Manning -- or what did PFC Manning
9 also know in late January 2010, that this information was also
10 significant to the enemies of the United States, removing the fog of
11 war that protected us from unconventional enemies and those that
12 fight on the asymmetric battlefield. Although he as the source of
13 these SIGACTS, he would be protected if the information was sat on
14 for perhaps 90 to 180 days, he would be protected as the source if it
15 was sat on between 90 and 180 days. He knew, he knew that all of the
16 intelligence and individuals named within those reports would never
17 be protected once it was removed from the classified SIPRNET system
18 and released to the world. Your Honor, again that is Prosecution
19 Exhibit 42.

20 Your Honor, how proud was PFC Manning of his actions
21 knowing he was able to get away with this and finally start down the
22 path of obtaining the worldwide notoriety. You've already seen the
23 picture, Prosecution Exhibit 40, on that same SD card with that same

1 readme.text file. He stood smiling at his aunt's house holding the
2 same camera with that SD card; the SD card that -- on the camera
3 noted in this picture, Your Honor, had 417,000 SIGACTS, the
4 readme.txt file advising WikiLeaks they might want to sit on the
5 information to protect him smiling in that photo, and not protect
6 those Iraqi and Afghanis named in the SIGACTS, U.S. Soldiers and
7 everyone else in all the missions in Iraq and Afghanistan. In this
8 picture Your Honor, this is not a picture of a troubled person
9 conflicted by his action as the defense wants you to believe, at
10 least in January 2010 and late December. This is a picture of a
11 person who thought he was finally becoming famous with that
12 information on the SD card.

13 Your Honor, the CIDNE SIGACTS were the first large scale
14 thefts of information by PFC Manning. It is clear that PFC Manning
15 viewed the SD card as his own trophy for his accomplishments. Could
16 he have kept the information erased on his personal computer and not
17 copied over to SD card after disclosing the contents to WikiLeaks?
18 Yes. But just like he created the mock tasking order that we will
19 talk about later detailing his intent, PFC Manning wanted to forever
20 memorialize for himself the fruit to his labor as he continued to
21 exfiltrate U.S. Government databases and portions thereof. Even 5
22 months later, Your Honor, on 26 May 2010, PFC Manning stated to
23 Adrian Lamo that he provided what he called highlights of the

1 disclosures which included the SIGACTS within the CIDNE databases.
2 That's on Page 46, Your Honor, of the Lamo chats, Page 46. Thus
3 admitted to providing portions of the CIDNE-I and CIDNE-A database to
4 WikiLeaks and recognizing the inherent importance of these documents.
5 When PFC Manning extracted records from the CIDNE database to his
6 personal computer, he completed his theft of those records. The
7 SIGACTS from the CIDNE databases were stored on a classified system
8 and only available to authorized personnel with a need to know and
9 who could access them on SIPRNET. At no time was PFC Manning
10 authorized to house those records on his personal laptop or on his SD
11 card at his aunt's house. Furthermore, PFC Manning converted the
12 information of the records from the CIDNE databases when he conveyed
13 them to WikiLeaks for publication. PFC Manning specifically intended
14 for the records to be released and WikiLeaks obliged. The United
15 States devoted significant resources to protect this classified
16 information. Mr. Lewis testified that foreign intelligence services
17 will pay for the information precisely because its exclusive
18 possession provides a significant benefit to the United States. The
19 publication of SIGACTS from the CIDNE databases completely deprived
20 the United States of this exclusive possession of the use of that
21 information.

22 Your Honor, PFC Manning knew the charged documents for
23 Specifications 5 and 7 of Charge II were classified. These documents

1 are probably marked Secret within the classified information field of
2 SIGACT reports. Further, these documents are located on SIPRNET and
3 the United States has not made these documents available to the
4 public. They were closely held. The charged documents themselves
5 for Specifications 5 and 7 of Charge II relates to the national
6 defense of the United States. Lieutenant Commander Hoskins and
7 Lieutenant Colonel Nehring both testified the documents contained a
8 type of information which would cause serious harm to national
9 security and thus should be Secret. It was the type of information
10 that could be useful to our adversaries and the type of information
11 that PFC Manning knew would be useful to the adversaries. Vice
12 Admiral Robert Harward, also, again the USCENTCOM Deputy Commander
13 and the OCA testified that the charged documents within both
14 datasets, the CIDNE-I -- SIGACTS from CIDNE-I database and the
15 SIGACTS from the CIDNE-A database were classified at Secret level
16 because their release could cause harm to national security. Your
17 Honor, if I may have a moment.

18 MJ: Yes.

19 TC[MAJ FEIN]: Your Honor, for the record PFC Manning and Major
20 Hurley have relocated to the witness box in order to look at
21 classified information and I have handed them each a copy and the
22 Court Appellate Exhibit 617, the government classified supplement for
23 closing argument.

1 Your Honor, Mr. Lewis testified that the value of the
2 SIGACTS from the CIDNE-A database far exceeds the statutory minimums.
3 Specifically, Mr. Lewis testified that the Foreign Intelligence
4 Services of multiple countries actively seek information contained
5 within the SIGACTS and would pay money for the SIGACTS from CIDNE
6 Afghanistan. The Foreign Intelligence Services seek information
7 pertaining to the United States military tactics, techniques and
8 procedures, TTPs, which show operation strategies, responses to
9 attacks and the units involved in TTPs and military operations in
10 Afghanistan as detailed and classified reason number 1.

11 Your Honor, when you're finished looking at classified
12 reason number 1, would you please let me know and I'll continue.

13 MJ: I have, go ahead.

14 TC[MAJ FEIN]: Yes, ma'am. Your Honor, Mr. Lewis testified that
15 country 1, country 1, would pay at least \$10,000, for the compromised
16 SIGACTS from the CIDNE-A database and Mr. Lewis called his valuation
17 conservative as set forth in classified reason 2. Your Honor, a
18 Foreign Intelligence Service has paid \$50.00 each for documents
19 containing information similar to that found in the SIGACTS. Mr.
20 Lewis determined that a Foreign Intelligence Service would value at
21 least 30 percent of the SIGACTS from the CIDNE-A database. Based on
22 Mr. Lewis' evaluation and the price paid per document, the 90,000
23 SIGACTS from the CIDNE-A database are worth approximately \$1.3

1 million to a Foreign Intelligence Service. Your Honor, that is 30
2 percent of 90,000 documents times \$50.00. Your Honor, Mr. Lewis also
3 testified that the value of the SIGACTS from the CIDNE Iraq database
4 far exceeded the statutory minimums. Specifically, Mr. Lewis
5 testified that the Foreign Intelligence Services of multiple
6 countries actively seek information contained in the SIGACTS and
7 would pay for SIGACTS from the CIDNE-I rack database. The Foreign
8 Intelligence Services seek information pertaining to the United
9 States military tactics, techniques, and procedures, TTPs which show
10 operational strategies, responses to attacks and the units involved
11 in TTPs of military operations in Iraq as detailed in classified
12 reason number 3. Mr. Lewis testified that country 2 would pay at
13 least \$10,000 for the records in the CIDNE Iraq -- the SIGACTS, in
14 the CIDNE-Iraq database, and Mr. Lewis called his valuation
15 conservative as set forth in classified reason 4.

16 A Foreign Intelligence Service has paid \$50.00 for
17 documents containing information similar to that found in the SIGACT.
18 Mr. Lewis determined that a Foreign Intelligence Service would value
19 at least 10 percent of the SIGACTS from the CIDNE-I database. Based
20 on Mr. Lewis' evaluation, the price paid per document, the 380,000
21 records, SIGACTS, in the CIDNE-I database are worth approximately
22 \$1.9 million to a Foreign Intelligence Service which is 10 percent of
23 \$380,000 times \$50.00.

1 Your Honor, at this point I'm going to move on to the ACIC
2 document which doesn't necessarily -- doesn't require any classified
3 enclosures to be referenced.

4 MJ: Do you request to retrieve them and have PFC Manning go
5 back to the table?

6 TC[MAJ FEIN]: Yes, ma'am, I do. So the United States requests
7 that I will collect those documents and then continue. Your Honor,
8 United States retrieved Appellate Exhibit 617 from the Court and PFC
9 Manning and Major Hurley.

10 Your Honor, the next data -- the next document, compromised
11 document is the ACIC document and this goes to Specification 1 --
12 excuse me, Your Honor -- and -- well, 1 and 15 but mostly for 793
13 offense, Your Honor, Specification 15 of Charge II. Your Honor, the
14 ACIC report is a charged document as stated in Specification 15 of
15 Charge II. The declassified version of the document is at
16 Prosecution Exhibit 45 and the original classified version is at
17 Prosecution Exhibit 46, 45 and 46.

18 Your Honor, the ACIC report provided PFC Manning with the
19 actual knowledge that the enemies of the United States would use
20 classified information obtained from WikiLeaks against the United
21 States and knowing that PFC Manning deliberately disclosed this
22 document, this document to the world through WikiLeaks. Ms. Glenn
23 testified about the Army Counterintelligence Center's process for

1 creating intelligence products like self-initiated special report
2 charged here. She also addressed the Center's meticulous sources
3 program. With regard to the report significance, Ms. Glenn explained
4 the mission of the Cyber Counterintelligence Assessments Branch where
5 she worked as a senior analyst was to identify the specific threats
6 using predictive analysis and use work product like the charged ACIC
7 document that she explained reflects that objective. Your Honor, in
8 this case the 18 March 2008, report describes in detail what the
9 other research of WikiLeaks.org revealed about the nature, operations
10 and actions of WikiLeaks in 2008. Its purpose, Ms. Glenn testified,
11 was to assess the counterintelligence threat posed to the United
12 States Army by the WikiLeaks website. Specifically, the ACIC report
13 analyzes the threat posed by WikiLeaks following the release of the
14 U.S. Army table of equipment in Iraq and Afghanistan from April 2007
15 and the release of other classified U.S. government information.

16 The report's key judgments communicate three main points,
17 Your Honor. That WikiLeaks represents potential force protection
18 counterintelligence OPSEC and INFOSEC threat to U.S. Army, that's on
19 Pages 3 and 4 of Prosecution Exhibit 46. Recent unauthorized
20 releases of DoD sensitive and classified information provide Foreign
21 Intelligence Services, foreign terrorist groups, insurgents, and
22 other adversaries with potential actionable information for targeting
23 U.S. forces. And WikiLeaks most likely has other DoD sensitive

1 classified information in its possession and will continue to post it
2 on their website. Your Honor, the ACIC report goes on to discuss DoD
3 classified information that WikiLeaks had released in the past and
4 how WikiLeaks posts all information that it received without
5 editorial oversight. The basic report concludes that and PFC Manning
6 knew that it must also be presumed that foreign adversaries will
7 review and assess any DoD sensitive or classified information posted
8 to that website. The document warned readers of adversaries'
9 increased ability to complete rapid data compilations to more
10 efficiently develop actionable information, intelligence collection,
11 planning or targeting purposes against the United States. That's on
12 Page 21, Your Honor, of Prosecution Exhibit 45. So you'll see, Your
13 Honor, that this charged document itself serves as yet another
14 warning to PFC Manning as to the dangers of posting information on
15 the internet generally and once more on WikiLeaks specifically.
16 Given the accused's experience with the classified information of
17 classified documents and the types of information contained in that
18 report as well as its markings, the accused knew that the
19 unauthorized release of that single report itself could cause
20 serious damage to national security. As you heard from Ms. Glenn,
21 the ACIC document is only available on SIPRNET. At the time it was
22 taken from the U.S. Government or on JWICs and transmitted to
23 WikiLeaks and ultimately posted to the internet. The report was

1 marked Secret at the top and bottom of each of the 32 pages which
2 signaled to PFC Manning that it was a classified -- that it was
3 classified information and should be treated as such. Your Honor,
4 Prosecution Exhibit 181 Alpha, 181 Alpha is the classified
5 stipulation expected testimony for the original classification
6 authority of that document and it further explains why the ACIC
7 report is national defense information and was properly classified at
8 the secret level. Prosecution Exhibit 181 Alpha.

9 Your Honor, Prosecution Exhibit 84 is a summary of the
10 Intelink logs produced by Special Agent Shaver to annotate the exact
11 time PFC Manning downloaded this document and viewed the ACIC
12 document through Intelink. This exhibit shows PFC Manning accessed
13 both the web page that containing the document that's the .ASP
14 version Your Honor, the webpage version, and the document version,
15 that's the Microsoft Office document, the DOC version of the ACIC
16 report on 29 December 2009, 14 February 2010, 1 March 2010, and all
17 that from his .40 SIPRNET computer. Your Honor, Mr. Artale, the ACIC
18 website administrator, he testified that Prosecution Exhibit 63, an
19 IP address associated with PFC Manning accessed the ACIC website
20 containing the ACIC report on 1 December 2009, and subsequently on 29
21 December, 1 March and 7 March. Mr. Chamberlain testified that the IP
22 address addresses .22 and .40 accessed ACIC server 114 times

1 beginning on 19 November 2009 and that is reflected in the server
2 logs, Prosecution Exhibit 64.

3 MJ: How many times did you say?

4 TC[MAJ FEIN]: Your Honor, 114 times beginning on 19 November
5 2009, which is essentially within a few days of PFC Manning having
6 access to SIPRNET without a Soldier to his left or right during
7 RIP/TOA.

8 Your Honor, the first time the United States can prove PFC
9 Manning viewed the ACIC report was on 1 December although he accessed
10 the website on 19 November. PFC Manning was on the ACIC website
11 viewing that document weeks before Christmas Eve of 2009. Your
12 Honor, what did PFC Manning do after reading the ACIC document,
13 ignoring the warnings enumerated in the document and then compromise
14 the ACIC document to WikiLeaks. He obsessively followed its release
15 and baste in the amount of press the release was receiving. And in
16 the Assange chat PFC Manning makes clear his need to monitor the
17 attention his actions were receiving. PFC Manning told Julian
18 Assange that a US Government official, Lieutenant Colonel Packnett,
19 confirmed the authenticity of the ACIC reports to the New York Times
20 laughing that this action is contravention of the typical policy to
21 protect classified information by neither confirming nor denying the
22 authenticity of compromised classified information. Your Honor,

1 that's clearly stated in the Assange chats Page 13, Page 13 of the
2 Assange chats.

3 Your Honor, the accused repeatedly searched for SIPRNET
4 available information on WikiLeaks. He found this report as early as
5 1 December 2009. He repeatedly accessed it and ultimately disclosed
6 it to WikiLeaks. The intelligence report relates to national defense
7 discussing specifically our vulnerabilities to WikiLeaks and the
8 terrorist organizations their actions aid. This document was
9 classified and not released publicly until PFC Manning took it upon
10 himself to unilaterally decide the world, including the enemies of
11 this country, should receive it.

12 Your Honor, the next charged document is the Apache video.
13 This is Specification 2 of Charge II. Though edited by WikiLeaks and
14 PFC Manning for release, the video compromised by PFC Manning was
15 over 38 minutes of footage from a United States Army Apache
16 helicopter. Ultimately, the video was posted for the world on the
17 WikiLeaks on 5 April 2010, a little less than 2 months after the
18 accused leaked it to the activist organization on 15 February 2010.
19 With regard to the content of the video, Your Honor, you heard
20 primarily from Chief Warrant 5 Officer John LaRue has been an Apache
21 helicopter pilot more than quarter of a century flying Apache
22 helicopters. Chief LaRue testified that this video depicts the heads
23 of display of the Apache helicopter. He explained that the footage

1 shows our angles of engagements and reveals how pilots engage
2 targets. It depicts how pilots use technology on aircraft and
3 exposes our use of laser technology to obtain key metrics. Overall,
4 the video documents the actions and experiences of U.S.
5 Servicemembers conducting a wartime mission. With regard to the
6 manner in which the video is treated, Chief LaRue testified that the
7 footage contains a sort of information preserved to facilitate
8 lessons learned by our aviation community and that it is protected
9 from compromise by placement on SIPRNET system. The information is
10 reviewed and sanitized prior to any potential public release.
11 Moreover, although this Apache video is unclassified, the information
12 is still sensitive. The senior pilot testified that this information
13 is the same type he has been taught and himself teaches never to
14 release. Why is that, Your Honor? Because as Chief LaRue explained,
15 this information benefits our adversaries by communicating our
16 tactics, techniques and procedures and informing them on the
17 limitations of the U.S. government's technology. Your Honor, the
18 defense would have you believe that a verbatim transcript of the
19 incident had already been made public and this somehow showed the
20 video wasn't closely held and excuses the accused's conduct. This
21 United States submits is actually a red herring. Just as purported
22 state cables contain topics also addressed in open source material,
23 so is true the incident depicted in the charged video has -- was no

1 secret. However, just like every other piece of protected U.S.
2 government material in this case, at no point was the entirety of
3 this video officially released at no point were images made public at
4 no point was the TTP information it contained disclosed. Even the
5 book itself didn't describe the weapons or engagement response.
6 Moreover, the so called transcript in the Finkel book is not actually
7 verbatim although the portions provided are very similar. There's
8 been no evidence that the embedded journalist ever saw the video, and
9 in fact the author mentions a necessity of protecting the sources of
10 methods -- sources of methods -- and methods from which the content
11 is derived, the content of his book. What's more is that based
12 especially on the AIT and on-the-job training already discussed, PFC
13 Manning knew the value of the video to the enemy as well as the need
14 to protect the information it contained. Disregarding the
15 sensitivity of this material, PFC Manning thought the video was cool
16 and decided to release it to a bunch of anti-government activists and
17 anarchists to achieve a maximum exposure, the maximum exposure and
18 advance his personal quest for notoriety. Ultimately, this video is
19 released by WikiLeaks on 5 April, Your Honor, 2010, yet PFC Manning's
20 involvement in this tale of this compromised reaches as far back as
21 December of the previous year. PFC Manning saw, researched, released
22 and then assisted in doctoring the video for maximum impact, all
23 notwithstanding his understanding of the nature of the material. PFC

1 Manning first saw the video in December of 2009 with Soldiers in
2 unit. Ms. Showman, Captain Fulton, Chief Balonek all testified that
3 the video was located on the unit SIPRNET, their SIPRNET shared
4 drive. This drive Captain Cherepko testified was acceptable to any
5 individuals with appropriate clearance such as PFC Manning and his
6 analyst colleagues. Your Honor, on 22 January 2010, 22 January
7 2010, PFC Manning left Iraq for his R&R leave. During this time he
8 erased his computer in order to destroy any evidence of his prior
9 misconduct regarding the Gharani video and the CIDNE databases, the
10 SIGACTS portions of the CIDNE databases. But by this point, Your
11 Honor, on 22 January 2010, PFC Manning realized that his previous
12 Gharani leak would not be released any time soon because it was
13 encrypted. This reality was under -- was essentially utterly
14 unsatisfactory to him. Through researching the event, PFC Manning
15 released the Apache incident had been subject to a FOIA request.
16 This Apache video was his opportunity and therefore would be his next
17 target; his means to fame. PFC Manning, returned to theater on 14
18 February 2010, less than 24 hours later on 15 February 2010, he
19 burned the Apache footage and its associated documents onto a disk
20 from his SIPRNET DCGS-A computer and he took that material out of the
21 T-SCIF to his CHU where he loaded the disc into his personal Mac
22 computer and uploaded to WikiLeaks. That video, along with the
23 Reykjavik13 cable, the C3 document, and the NCIS IRR, Your Honor,

1 this is shown by the forensic evidence. Prosecution Exhibit 127 is
2 the volumes.TXT file -- or document, excuse me, Line 1, Line 1 on PE
3 127 shows the Apache file name which was the same name he used for
4 the file on the disk found in his CHU at the time of his arrest.
5 However, Your Honor, compromising Apache video to WikiLeaks wasn't
6 going to be enough for PFC Manning. The entire video would not make
7 the splash he wanted and garner the attention he craved. PFC Manning
8 didn't get the reaction he desperately wanted from that Gharani
9 video. It couldn't be released because WikiLeaks didn't have the
10 password. This meant that PFC Manning was deprived of that notoriety
11 his actions deserved. If WikiLeaks didn't make the press, then how
12 could he be the one that hailed as the famous source. And so PFC
13 Manning wanted to make sure this video, this video that the day after
14 he got back from R&R made the biggest splash and it received the most
15 attention. So accordingly, Your Honor, PFC Manning ultimately
16 participated in editing the video which would later be released by
17 WikiLeaks under the name of "Collateral Murder."

18 Your Honor, this is Prosecution Exhibit 41. Page 1 of an
19 e-mail between PFC Manning and Mr. Schmiedl. Note, please, Your
20 Honor, that PFC Manning credits himself in this e-mail with,
21 "approving the edits and instructing the quotation inclusion."
22 Paragraph 1 of his own e-mail. "I approve the edits without actually
23 viewing the video, had a written description." Then he talks about

1 instructing their will be an Orwell quote, Paragraph 3. You should
2 note too, Your Honor, the hypocrisy for all his professing all the
3 information needed to be public, PFC Manning did not seek to release
4 the whole video but rather an edited version, again, to maximize
5 impact. And instead of leading the people he wanted so much to have
6 the information, free to assess it, he approved the staging of the
7 video into a sound bite package to inflame and skew the historic
8 narrative. Prosecution Exhibit 41, Your Honor. He then later
9 attempted to burn the video again so he would have his own personal
10 copy to substantiate his status as the original leaker. Another
11 trophy. After slapping a US Government SECRET sticker on the burned
12 video, the accused hid the otherwise notable material within
13 inconspicuous personal property and stashed it into the rubble of
14 personal effects cluttering his CHU. He put it in an Arabic language
15 training software package and hid it in there, Your Honor, properly
16 marked with a SECRET sticker at least that PFC Manning knew at the
17 time was Secret, labeled it the Reuters FOIA request, and even used a
18 label maker to put the file name on it. Your Honor, these are not
19 the actions of a naive person stumbling onto something he thought
20 should be made public, but just didn't know how. Instead, this
21 reveals that PFC Manning's true nature, once again a capable Soldier
22 being trained with his experience regarding the enemy's priorities
23 and resources and with the opportunity and an agenda, Your Honor,

1 he's a Soldier that capitalized on his skills, training and access
2 for his own personal gain. He put himself before his country even
3 with this video, Your Honor. Virtually each click of his mouse on
4 SIPRNET was motivated by his request for the biggest impact and the
5 widest notoriety. With the editing of the Apache helicopter video,
6 Your Honor, PFC Manning knew he would get a reaction, and he did.
7 Over and over again, PFC Manning conducted open source research, and
8 obsessively watched the effects of his handy work seeking not just
9 for his 15 minutes of fame, but a lifetime of notoriety.

10 First, Your Honor, PFC Manning conducted searches for
11 Reuters, an Apache video related items 51 times, 51 times in 36 days
12 between March and April of 2010. This is all in the Intelink search
13 summary, Prosecution Exhibit 81, Lines 534 through 668, 534 through
14 668.

15 MJ: That's Prosecution what?

16 TC[MAJ FEIN]: 81, Your Honor, the Intelink search logs. PFC
17 Manning used SIPRNET to search open source articles on the Secret
18 system 51 times in 36 days. PFC Manning also downloaded the edited
19 collateral murder video from the actual open source center on his .22
20 computer on 12 April 2010. In an effort to obtain immediate
21 notoriety, although in a clandestine form on 25 April, PFC Manning
22 brought the resistance of the video to the attention of Captain
23 Fulton who compared the link share drive video with the one she

1 observed on R&R; only to verify a match noting her reaction, he
2 burned the souvenir copy a mere 3 days later. Then in May PFC
3 Manning discussed via e-mail his role in editing that video as you
4 saw a moment ago to Mr. Schmiedl saying he was glad it made an impact
5 in connecting it to the CIDNE actual reports from the -- the SIGACTS
6 from the CIDNE actual reports.

7 Finally, Your Honor, PFC Manning's own aunt, Ms. Van
8 Alstyne, testified that PFC Manning even asked her to post the edited
9 version on his Facebook account after being confined. The theme here
10 is PFC Manning's consistent cavalier attitude towards this material.
11 Manning knew the importance of the information and that it was only
12 available on SIPRNET. He even thought it was classified. So based
13 on his knowledge, training and experience, he knew it was not
14 publicly available. Ms. Scott, the Chief of FOIA and Privacy
15 Section for USCENTCOM, she testified that while the investigation had
16 been released to the public through FOIA, this specific video was not
17 among those materials released. At every turn, Your Honor, PFC
18 Manning's handling and treatment of this video has been a violation
19 of his instruction and duty to the United States. PFC Manning copied
20 what later determined to be an unclassified video from a classified
21 system, he took it to his room for his personal use to and whisked it
22 to what he thought was an intelligence agency run by force. Your
23 Honor, he took these deliberate steps even when the book he talked

1 about in these chats, his self-claimed measuring stick for this
2 disclosure revealed the author had not released the entire video
3 transcript and did not release any images from the video itself, and
4 it deliberately protected sources and methods within his own book,
5 Page 285, Your Honor, on Prosecution Exhibit 186.

6 Your Honor, the next section, password cracking,
7 Specification 1 of Charge III. You've heard ----

8 MJ: What?

9 TC[MAJ FEIN]: You've heard overwhelming evidence, Your Honor --
10 --

11 MJ: What did you say?

12 TC[MAJ FEIN]: I'm sorry. Specification 1, Your Honor, of
13 Charge III.

14 MJ: Okay.

15 TC[MAJ FEIN]: Your Honor, you've heard overwhelming evidence
16 that PFC Manning started abusing his access to SIPRNET less than 2
17 weeks after starting work in the SCIF at FOB Hammer. By March 2010,
18 the accused had already stolen and transmitted over 500,000 documents
19 and watched the world's reaction to the Reykjavik cables released.
20 Yet, one of the topics the United States did not necessarily
21 highlight during its case in chief were some of the searches PFC
22 Manning conducted on SIPRNET related to obfuscating his internet
23 activity. Between 6 December '09 and 8 March 2010, PFC Manning

1 searched 19 times on SIPRNET for terms such as encryption, rendale,
2 and that's what PFC Manning described to Ms. McNamara as encryption
3 that has gone 12 years not being broken in his chats, and MD5, which
4 is an algorithm for hashing files. And then, Your Honor, on 8 March
5 2010 at 2228, so 10:28 p.m., PFC Manning used his access to SIPRNET
6 to search for rainbow tables ----

7 MJ: What date was that?

8 TC[MAJ FEIN]: I'm sorry, ma'am?

9 MJ: What date was that?

10 TC[MAJ FEIN]: Ma'am, that's on 8 March 2010, at 2228 and 21
11 seconds. More importantly, Your Honor, it's Line 417 of Prosecution
12 Exhibit 81. Line 417, Prosecution Exhibit 81. That search was for
13 rainbow tables. Why would PFC Manning be doing research on rainbow
14 tables? It's pretty obvious when you put the pieces together and
15 gets to the heart of Specification 1 of Charge III. We know that
16 Private First Class Manning was obsessed with covering his own
17 tracks. We know this from his personal Mac information erasure on 31
18 January 2010. He performed a seven-pass erase of his computer, not
19 just one. These facts join a host of others which evidence PFC
20 Manning's interest in hiding his transgressions. He used other
21 people's user accounts and even changed the default setting on his
22 .22 internet browser to refrain from capturing internet search
23 history. But at some point, Your Honor, at some point, it occurred

1 to Private First Class Manning that there might be a chance that his
2 activity was being captured by audit systems on the SIPRNET. It was
3 easier to obfuscate what he was doing on his own machine, but not as
4 easy on the SIPRNET. And, in fact, we know that it was a concern of
5 his from his chats with Julian Assange.

6 Your Honor, on Page 3, Prosecution Exhibit 123, the Assange
7 chats, PFC Manning said ah, I'm all over the place, clearing logs,
8 not logging at all, safe, I just wanted to be certain. And this was
9 on 6 March 2010, talking about clearing logs. So, again, why search
10 on Intelink, Your Honor, for something called rainbow tables on 8
11 March 2010? Private First Class Manning's SIPRNET computers had a
12 local user named FTP user on the account. You heard from Special
13 Agent Shaver that the FTP user, the user name, was a user account on
14 the DCGS-A SIPRNET computers and was not attributable to any
15 particular person or user. It was an account that would store files
16 without any tie to the actual user behind the keyboard. It was an
17 account where one could store programs like Wget and other
18 information within the profile my documents and not have any tie to
19 the actual user behind the keyboard. It's an account where one could
20 search the SIPRNET and get closely held information without any tie
21 to the actual user behind the keyboard. In short, Your Honor, having
22 access to the FTP user account could effectively anonymize PFC
23 Manning behind the keys of the .22 and .40 SIPRNET computers.

1 Fortunately for the United States, PFC Manning's attempts to gain
2 access to the FPT user account would fail despite his requests for
3 assistance from Julian Assange and WikiLeaks.

4 Special Agent Shaver testified that Microsoft Windows has
5 multiple ways to protect passwords. First, instead of storing the
6 actual password in plain text, the actual words of the password, the
7 letters and numbers, Windows converts it to a unique hash value and
8 that's called the LM hash. LM hash. And it uses a complicated
9 mathematical algorithm to prevent what Special Agent Shaver called
10 bad people from obtaining passwords. Second, Your Honor, Windows,
11 Microsoft Windows splits that algorithm into two pieces, storing one
12 in the computer's system file and one in the computer's SAM file,
13 system file and SAM file. Finally, Your Honor, Windows prote -- the
14 last layer of protection that Windows provides is that it locks down
15 these two files, the system file and SAM file. It locks them down so
16 no user except an administrator can actually access the content of
17 those files. Your Honor, knowing he did not have administrator
18 privileges, PFC Manning resorted to the most effective method of
19 circumventing the security system on his SIPRNET computer. He
20 decided to bypass all of Microsoft Windows, the entire operating
21 system of Windows to access the security information on the
22 computer. He did that knowing the protections Microsoft Windows has
23 on the SAM and system files. Special Agent Shaver testified that if

1 a user was to boot their computer using a CD that was configured to
2 run another operating system, that user could navigate to the SAM
3 file or system file on the hard drive and view its contents because
4 that's doing it outside of Windows. One such operating system is
5 Linux. Special Agent Shaver testified that a knowledgeable person
6 could download a copy of Linux free from the internet and create a
7 bootable version of the operating system, a rescue disk that could be
8 installed on a CD and that installation program is called an ISO.
9 ISO. Special Agent Shaver testified that an ISO is an image. It's
10 an image file of the CD, a copy of a CD. Your Honor, Special Agent
11 Shaver testified that PFC Manning downloaded a Linux install, excuse
12 me, rescue disk ISO multiple times and specifically on 2 March 2010
13 at 1748:51 hours, 1748:51. He burned that Linux system operating,
14 that Linux -- excuse me -- rescue disk operating system ISO to a CD
15 on his personal Mac.

16 Your Honor, note Prosecution Exhibit 125. Prosecution
17 Exhibit 125 is the disk utility log for PFC Manning's personal Mac
18 and specifically, Your Honor, Lines 365 through 382.

19 MJ: That exhibit was what?

20 TC[MAJ FEIN]: 125, Your Honor, and it's Lines 365 through 382.
21 This disk utility log from the personal Mac shows PFC Manning burning
22 that Linux ISO to a disk. You recall, Your Honor, that Special Agent
23 Shaver actually used the exact same Linux ISO to view the folder

1 contents that PFC Manning would have. The only way Special Agent
2 Shaver explained that one could potentially obtain access to the SAM
3 and system files was to boot the computer using this Linux operating
4 system CD.

5 Now, Your Honor, you heard from Mr. Weaver, one of the
6 primary authors of AR 25-2, that under 25-2 bypassing includes
7 finding capabilities that elevate the user's privileges. He
8 explained that traditionally bypassing means someone installed or
9 modified a system in order to gain access in an unauthorized way, and
10 this is exactly what PFC Manning did or at least attempted to do. By
11 equipping himself with Linux, a different operating system and
12 booting the government SIPRNET DCGS-A computer using that CD, PFC
13 Manning attempted to bypass and did actually bypass a network
14 security system in order to obtain a security data. Specifically,
15 PFC Manning breached built-in security features within Microsoft
16 Windows, the Army's approved operating system, on his DCGS-A computer
17 that protected the FTP user account. He wanted the account log-in
18 credentials to conceal his identity to continue abusing access to
19 SIPRNET and classified information. Special Agent Shaver testified
20 that PFC Manning successfully obtained a portion of the LM hash value
21 for the FTP user account from his SIPRNET computer. And with that
22 portion of the LM hash value in his hand, PFC Manning wanted a way to
23 speed up cracking and decrypting the passwords for the FTP user

1 account. So he turned to his two trusted sources for information,
2 WikiLeaks and Intelink. Your Honor, you'll see on Page 6 of
3 Prosecution Exhibit 123, these are the Assange chats, Page 6. That
4 on 8 March between 1555 and 1611 on 8 March between 1555 and 1611 PFC
5 Manning chatted with Julian Assange and WikiLeaks and provided a hash
6 value obtained from his SIPRNET computer SAM file. With the direct
7 assistance of Julian Assange and WikiLeaks, PFC Manning attempted to
8 reverse engineer the password for FTP user.

9 Your Honor, Prosecution Exhibit 130, going back to a key
10 piece of evidence in this case, is the summary created by Special
11 Agent Shaver. Your Honor, when you deliberate you'll have
12 Prosecution Exhibit 130. Your Honor, with the direct assistance of
13 Julian Assange and WikiLeaks, he attempted to reverse engineer that
14 password for FTP user. Your Honor, take a look at Prosecution
15 Exhibit 130, created by Special Agent Shaver, on the top you have the
16 extract from Prosecution Exhibit 123 the Assange chat. On the bottom
17 you have the EnCase forensic pull of what PFC Manning called and
18 Special Agent Shaver testified a hex dump. Special Agent Shaver
19 created this summary showing PFC Manning's chatting with Julian
20 Assange and the EnCase forensic extract from the .22 SAM file.
21 Special Agent Shaver testified that you can see the FTP user on the
22 right side of the SAM file. Your Honor, on the bottom right, FTP
23 user shows up in that SAM file. And then following that is the

1 hashed algorithm. The hashed algorithm, Your Honor, is the 80C11049
2 all the way to the 351C. It's in a black bold on the left side of
3 the FTP user. He also testified that he conducted a process called a
4 hex dump which converted the information on the SAM file to a hex
5 value of the hash value that is on the left. Excuse me, Your Honor.
6 On the left side is what is called the hex dump. The reason that's
7 important, Your Honor, is if you look at the chats you will see that
8 PFC Manning said at 1609 to Julian Assange, not even sure if that's
9 the hash. I had to hex dump a SAM file since I don't have the
10 system file. And Special Agent Shaver, using EnCase forensic
11 software, did the exact same process. As you can see, Your Honor, in
12 black at the bottom left is that 80 number I just read. Little
13 difficult to see on this projection, Your Honor. It's clear on the
14 document, Prosecution Exhibit 130. And at the top of the chat, Your
15 Honor, PFC Manning inquires about KN hash cracking. Upon hearing
16 about the rainbow table resource, he provides the partial hash
17 values, concerning -- confirming it's a SAM file origins. What I
18 mean by that, Your Honor, is that is that 80C1 number that is on the
19 bottom left was provided by PFC Manning in his chats to receive
20 assistance by Julian Assange in cracking his SIPRNET computer, the
21 FTP user account information. Your Honor, at 1611:26 on 8 March
22 2010, within these chats as annotated here on PE 130, Julian Assange
23 responded that WikiLeaks, that his LM hash guy will handle it. He

1 will pass it to his LM hash guy. That's on the second from the
2 bottom on the right side. Please note, Your Honor, that this chat
3 occurred when PFC Manning was off shift, and in his CHU on his
4 personal Mac, and this was at 1611. Shift change occurred every day
5 at 2200 just shy of 30 minutes at 2228, PFC Manning used his SIPRNET
6 access to search for rainbow tables and Special Agent Shaver
7 testified that rainbow tables are used -- are tables that are used in
8 order to find known hash values for passwords if a password -- a
9 known password in plain text converts to a known hash value it is a
10 way to quickly determine what that password is. PFC Manning went to
11 SIPRNET in order to figure out if he could find a rainbow table and
12 he could not wait, Your Honor, but for 6 hours after he chatted with
13 Julian Assange in order to find a way to get the FTP user account
14 information, luckily for the United States PFC Manning did not find
15 what he was looking for. The accused successfully breached security
16 protocols and obtained that portion of the LM hash value in the SAM
17 file. PFC Manning knew what to do in order to bypass that security
18 protocol; and specifically, designed -- that is, specifically
19 designed to protect the password information and he took deliberate
20 steps to circumvent those protections by using a Linux install CD --
21 rescue CD. And he actually violated regulation in two separate and
22 distinct ways, Your Honor. First, by booting the SIPRNET computer
23 using a CD of a different operating system, he bypassed the

1 information system security mechanism, the use of user name and
2 password to gain access. As Special Agent Shaver testified a normal
3 user, did not have access to a SAM file. You could only gain it by
4 booting from a CD. Second, by navigating the SAM file and obtaining
5 part of the hash value of the password to the FTP user account, PFC
6 Manning attempted to bypass the security mechanisms in place. Using
7 Julian Assange and WikiLeaks, PFC Manning tried to figure out the
8 password to another local user account on his SIPRNET computer, one
9 he did not normally have access to in the course of his work, so he
10 could hide in plain sight and not operate under the potential fear of
11 being caught.

12 Your Honor, I don't know if now is a good time to take a
13 recess or I can keep going.

14 MJ: It probably is. Is 15 minutes sufficient?

15 TC[MAJ FEIN]: Yes, ma'am.

16 CDC[MR. COOMBS]: Yes, Your Honor.

17 MJ: All right. Court is in recess for 15 minutes.

18 [The court-martial recessed at 1452, 25 July 2013.]

19 [The court-martial was called to order at 1514, 25 July 2013.]

20 MJ: Court is called to order. Let the record reflect all
21 parties present when the Court last recessed are again present in
22 court. Major Fein?

1 TC[MAJ FEIN]: Your Honor, the next dataset are the GTMO
2 documents that are charged in this case is for Specification 8 and 9,
3 of Charge II.

4 **[The court reporter informed the trial counsel that the microphone**
5 **was not turned on.]**

6 Your Honor, the next set are the GTMO documents that serve
7 as a basis for Specification 8 and 9 of Charge II and also, Your
8 Honor, Specification 2 of Charge III. Detainee Assessments Briefs,
9 or DABs that PFC Manning stole highlight PFC Manning's desire, Your
10 Honor, to seek publicity. By compromising information explicitly
11 sought by WikiLeaks. PFC Manning researched GTMO information
12 repeatedly on Intelink. He found the DABs on a classified network
13 and reviewed them. He then discussed their contents with Julian
14 Assange before asporting all the records in the database by using an
15 unauthorized program Wget. Even after PFC Manning stole them he
16 couldn't stop talking about them with Adrian Lamo. Private First
17 Class Manning's Intelink searches show that he was looking to get the
18 information published on WikiLeaks from the beginning of his
19 deployment. He was looking for politically notable information that
20 would garner as much attention as Reykjavik did in February 2010.
21 Using the tools provided to him by the United States to analyze
22 intelligence, Private First Class Manning searched for information to
23 compromise to WikiLeaks and when he found the GTMO DABs, the detainee

1 assessment briefs, he introduced Wget and started harvesting them.
2 Your Honor, what are DABs? DABs were a recommendation to the US
3 SOUTHCOM Commander for the disposition of detainees, which included
4 the detainee's threat level and intelligence value to the United
5 States. The DABs contain classified information pertaining to United
6 States intelligence regarding terrorists and their organizations and
7 classified information about terrorist training, TTPs, and
8 intelligence analysts of terrorist organizations. Furthermore, Your
9 Honor, the DABs demonstrate the US intelligence gaps about terrorists
10 and terrorist organizations and the extent of cooperation with the
11 United States. Rear Admiral David Woods testified as the OCA for the
12 DABs that compromising the DABs could cause serious damage to
13 National Security and thus they are classified at the Secret level.

14 MJ: Who was the person that did that?

15 TC[MAJ FEIN]: Your Honor, that's Rear Admiral David Woods, the
16 previous commander of JTF-GTMO. The DABs were housed in three
17 locations, all of which are classified. Mr. Motes, Your Honor, he
18 testified as a head of the DAB branch that the DABs were stored
19 locally on the GTMO share drive on SIPRNET, on the JDIMS-I, a unique
20 system for the JTF-GTMO housed on a classified network and also on
21 SIPRNET on Intellipedia. Mr. Motes testified that the DABs were
22 stored by document ID number and a user can see the document ID
23 number by scrolling over the link for each DAB on Intellipedia web

1 page. Your Honor, on 8 December 2009, Private First Class Manning
2 first accessed the DAB website. On 5 March ----

3 MJ: What was the date?

4 TC[MAJ FEIN]: Your Honor, it was 8 December 2009.

5 MJ: Thank you.

6 TC[MAJ FEIN]: And, Your Honor, on 5 March 2010, 5 March 2010,
7 the Intelink logs show that he attempted to download the entire
8 database but could not complete that download. Prosecution Exhibit
9 82, 82 shows PFC Manning's manual attempts to collect the DABs.
10 Special Agent Shaver testified that PFC Manning started downloading
11 DABs using the right click save method, as an ordinary user would on
12 5 March 2010. And Special Agent Shaver testified that the right
13 click method was slow and wrought with errors.

14 MJ: That's Prosecution Exhibit 82?

15 TC[MAJ FEIN]: Your Honor, Prosecution Exhibit 82 is an extract
16 of the Intelink log activity for 5 March 2010. Your Honor, Line 4 of
17 Prosecution Exhibit 82 shows PFC Manning's attempted -- attempt to
18 download one DAB at 3:22. Why is this important, Your Honor, is
19 because the summary shows that PFC Manning failed in this attempt
20 because on the Intelink log data there's a 000 code at the end of the
21 actual web address, 000 code. Again Prosecution Exhibit 82. Special
22 Agent Shaver testified that a 000 code signified that the download
23 did not go through. It was not complete. A minute later PFC Manning

1 successfully downloaded the same data. Special Agent Shaver also
2 explained an attempt was successful a download was successful if the
3 code 200 showed up next to the web address. So 000 failure; 200
4 complete. On just the first page of Prosecution Exhibit 82 there are
5 23 attempts to download DABs, 12 attempts, over half, were
6 unsuccessful with the 000 code. In order to get 11 successful
7 downloads Private First Class Manning spent approximately 7 minutes
8 according to the Prosecution Exhibit 82, Your Honor, in order to
9 increase a -- or excuse me, increase his effectiveness, PFC Manning
10 turned to an unauthorized program, Wget. Special Agent Shaver
11 testified that Prosecution Exhibit 157, 157 shows PFC Manning
12 searching for information on how to make Wget run faster and that was
13 on 7 March 2010. Special Agent Shaver testified that PFC Manning
14 began running Wget from his .22 computer system on 7 March 2010, the
15 first time and PFC Manning introduced that software onto his
16 classified computer in order to do that. Your Honor, the unit AUP,
17 authorized user for which Captain Cherepko remembered and testified
18 prohibited Soldiers from introducing executable -- excuse me,
19 executable code which specifically includes .exe files to a DoD
20 computer. And you'll remember from the testimony of Special Agent
21 Shaver, Your Honor, .exe files are executable files, programs.
22 Downloading the unauthorized Wget.exe file violated AR 25-2 Paragraph
23 4-5(a)(3) as detailed in Specification 2 of Charge III. As Special

1 Agent Shaver testified PFC Manning, after downloading Wget.exe, had
2 to program Wget, how to operate it. Wget did not have a graphical
3 user interface or GUI, therefore it was not as simple as double
4 clicking an icon of an installed program on the DCGS-A computer and
5 running it.

6 Your Honor, displayed here is Prosecution Exhibit 189, Page
7 1, 189, Page 1. This is the help file that Special Agent Shaver
8 testified he extracted from PFC Manning's computer and he had seen it
9 before because when you type in Wget-H, this help file displays in an
10 MS DOS prompt. Because Wget is a command line tool, it has many
11 options as displayed on Page 1 here. PFC Manning had to research how
12 to program Wget and how to program it in order to harvest the
13 entirety of the US SOUTHCOM database of DABs. PFC Manning used the
14 document ID number, the unique database identifier in Wget to extract
15 those DABs. Your Honor, PFC Manning was able to download the
16 database in less than 4 hours once he was able to get Wget running,
17 whereas if he -- his manual attempt on 5 March had been plagued with
18 errors. PFC Manning's success rate with Wget on 7 March was much
19 better. Special Agent Johnson -- excuse me, Mr. Johnson testified
20 that while PFC Manning was harvesting those DABs, he also was talking
21 to Julian Assange through his chats and he recorded that information.
22 Your Honor, PFC Manning and Julian Assange discussed the value of the
23 DABs, the types of information in the DABs, and the status of the

1 uploads. That is in the Assange chats Pages 3 through 5. Pages 3
2 through 5. Two months after stealing the DABs, PFC Manning bragged,
3 telling Mr. Lamo that, oh, the JTF-GTMO papers Assange has those,
4 too. PFC Manning went so far as to characterize the DABs as a
5 highlight on the information he stole. On 25 April 2011, WikiLeaks
6 released purported DABs on their website. Prosecution Exhibit 95 are
7 the charged DABs in this case.

8 Your Honor, Prosecution Exhibit 95 shows that the DABs are
9 marked SECRET on the top and bottom of each page. WikiLeaks
10 published the DABs because they had not been publicly released at
11 that point and the information in the DABs was not available anywhere
12 else. The evidence from all the witnesses indicated that the
13 documents were closely-held. As a defense's witness Colonel retired
14 Davis testified Defense Exhibit Victor, which is a DAB, was not
15 necessarily useful to a prosecutor who needed the underlying evidence
16 but Defense Exhibit Victor was an executive summary of that evidence
17 and intelligence reporting contained little public information. When
18 PFC Manning extracted the DABs to his personal computer, he completed
19 the theft of those records. The DABs that were stored on the
20 classified system where only authorized personnel with a need-to-know
21 could access them. At no time, Your Honor, was PFC Manning
22 authorized to house those records on his personal laptop.
23 Furthermore, Your Honor, PFC Manning converted the information in the

1 DABs when he conveyed them to WikiLeaks for publication. PFC Manning
2 specifically intended for the DABs to be published and WikiLeaks
3 obliged. The United States devoted significant resources to protect
4 the classified information in DABs from actual compromise. Mr. Lewis
5 testified that foreign intelligence services will pay for the
6 information precisely because its exclusive possession provides a
7 significant benefit to the United States. The publication of the
8 DABs completely deprived the United States of the exclusive
9 possession of the use of that information, exclusive use.

10 Accordingly, Your Honor, by causing the DABs to be published, PFC
11 Manning substantially interfered with the United States' ownership
12 rights in those records. Using Wget he scraped an entire classified
13 website. PFC Manning then placed the asported classified records on
14 his personal computer without authorization. After transferring the
15 records to the personal computer he talked with GTMO -- excuse me,
16 talked about GTMO records with Julian Assange, as I described before,
17 as he delivered them to their web site's online submission program.
18 Your Honor, in the end, PFC Manning felt the GTMO documents were the
19 highlight and were among many records he admitted to stealing. Mr.
20 Motes testified that each DAB, as the Chief of the DAB Branch, was
21 the product of 80 to 90 hours of work by intelligence professionals,
22 each DAB, Your Honor. And Mr. Motes testified that the lowest
23 ranking person that worked on the DAB creation had the grade of E4.

1 A specialist of the United States Army in 2005, a specialist or E4,
2 earned \$1,500.00 approximately per month in base salary. Assuming 40
3 hours per week, that works out to an hourly wage of about \$9.00, Your
4 Honor. Private First Class Manning stole over 700 detainee
5 assessments. Mr. Motes testified that each DAB took approximately 80
6 hours of work, thus 56,000 hours were spent creating those DABs.
7 Therefore, the cost to create the DABs was at a minimum \$525,000
8 which is based off 56,000 hours at the lowest grade of a producer of
9 the DABs at \$9.39 per hour. Your Honor, additionally, DABs are
10 valuable to foreign intelligence services.

11 Your Honor, at this time United States requests that the
12 accused and Major Hurley locate to the witness box and I will hand
13 Appellate Exhibit 617 to the Court and the Defense.

14 [There was a brief pause while the accused and Major Hurley moved to
15 the witness stand.]

16 Your Honor, Mr. Lewis testified that the foreign
17 intelligence services in multiple countries actively seek information
18 contained in DABs and would pay for DABs for the US SOUTHCOM
19 database. The foreign intelligence services seek information
20 pertaining to GTMO counterterrorism efforts as detailed in Classified
21 Reason Number 7. Mr. Lewis testified that country 4 would pay over
22 \$7,000 for the records in the US SOUTHCOM database and Mr. Lewis

1 called the valuation conservative as set forth in Classified Reason
2 Number 8.

3 Your Honor, at this point I'm going to transition over to
4 the two OGA documents that serve as the charged documents for
5 Specification 3 of Charge II, and if I may request that PFC Manning
6 and Major Hurley stay in their current position with the classified
7 documents for the beginning. Your Honor, PFC Manning knowingly
8 compromised the documents belonging to United States Intelligence
9 Agency that makes up Specification 3 of Charge II. I will generally
10 discuss in this open session the proof the United States presented
11 for the OGA information, however the United States primarily refers
12 the Court to specific -- to the top portion of Appellate Exhibit 617
13 before I continue as that is a classified legend for the remaining
14 portion of this argument.

15 **[There was a brief pause while the military judge, accused, and**
16 **defense counsel reviewed Appellate Exhibit 617.]**

17 MJ: Okay.

18 TC[MAJ FEIN]: Your Honor, the United States does not intend to
19 specifically reference any of that information again at this point so
20 the United States request that PFC Manning and Major Hurley relocate
21 and we could retrieve Appellate Exhibit 617.

22 **[There was a brief pause while the accused and defense counsel**
23 **returned to counsel table.]**

1 Your Honor, the charged memoranda were published on an
2 official US government website on the SIPRNET on the dates indicated
3 in Prosecution Exhibit 180, Paragraphs 147 and 16; Prosecution
4 Exhibit 180, Paragraphs 14 and 16. Line 425 of Prosecution Exhibit
5 81, the Intelink search logs, reveals that the accused searched for
6 the equity holder of these documents on his SIPRNET computer on 9
7 March 2010; on 9 March 2010, and that's Line 425, of Prosecution
8 Exhibit 81. According to the testimony of Special Agent Shaver about
9 the specific portion of the file named index.dat PFC Manning's .22
10 SIPRNET computer, the memoranda were likely present on the .22
11 computer around March 2010. Special Agent Shaver created Prosecution
12 Exhibit 154 to show this migration of the file names during his
13 closed session testimony.

14 MJ: What exhibit is that?

15 TC[MAJ FEIN]: Prosecution Exhibit 154. As a reminder, Your
16 Honor, the index.dat file is a file that captures the internet
17 history of files moving between web pages and on the computer.
18 Special Agent Shaver testified that he could tell that the memoranda
19 were on the machine by looking at an excerpt of the index.dat file
20 which is a file used, as I just mentioned, to record the web sites
21 and files accessed and this is in Microsoft Windows Explorer and
22 Internet Explorer. According to Prosecution Exhibit 154, PFC Manning
23 downloaded the first memorandum on 17 March 2010. He saved the first

1 memorandum and then the second memorandum to his desktop in the
2 Bradley.E. -- excuse me, Bradley.Manning profile in his My Documents
3 folder on the .22 computer and that was on 21 March 2010. Both
4 documents that he download were PDF file names very similar to the
5 names of the memorandum. All this is reflected in Prosecution
6 Exhibit 154. Special Agent Shaver testified that both memoranda were
7 moved to the folder named Blah, B-L-A-H, Blah, on 22 March 2010.
8 Then both memoranda were moved to a folder named "Interesting." The
9 name of the folder itself was -- well the name was "Interesting" on
10 that same day, Your Honor. About 30 seconds later, Blah.zip, a file
11 name Blah.zip was created in Bradley.Manning's My Documents folder.
12 According to Mr. Johnson in the volumes.txt document, that's
13 Prosecution Exhibit 127, a file named Blah.zip was placed on the
14 accused's personal Macintosh computer on 22 March 2010; 22 March
15 2010. According to Mr. Johnson, blah.zip was burned from a Windows
16 machine onto a CD at 1255 on 22 March and that's reflected again on
17 Prosecution Exhibit 127. The charged memoranda, Your Honor, were
18 properly marked classified. The memoranda also contained national
19 defense information as articulated in Prosecution Exhibit 180 Alpha
20 and 181 Alpha. Paragraphs 12 through 18. Specifically they both
21 contain information that concerns intelligence activities, sources
22 and methods and US foreign relations and activities such that the
23 authorized disclosure of these memoranda, Your Honor, reasonably

1 could be expected to harm or serious -- cause serious harm to the
2 national defense and foreign relations of the United States.
3 Prosecution Exhibits 180 Alpha and 181 Alpha also explained how the
4 information contained in the memoranda would be useful to the enemy
5 if released and show that the information in the memoranda is true,
6 at least in part. The dates the memoranda were posted on WikiLeaks
7 are recorded in Prosecution Exhibit 180. Prosecution Exhibit 180,
8 Paragraphs 15 and 20. These paragraphs also state that these
9 memoranda were never otherwise released outside the classified United
10 States Government official channels. According to Prosecution
11 Exhibit 141, the open source logs for bradass87 between 9 April 2010
12 and 13 April 2010, PFC Manning looked at several documents on the
13 open source center about the reaction to release of some of this
14 information. PFC Manning searched for the information on his SIPRNET
15 computer. He saved it on his .22 computer. He moved it to his
16 personal Macintosh computer and then the memoranda were posted on
17 WikiLeaks. Later, PFC Manning accessed the information to read about
18 the fallout. The evidence shows that the accused had reason to
19 believe that the information could be used to the injury of the
20 United States or to the advantage of a foreign nation.

21 Your Honor, the next dataset is the Net-Centric Diplomacy
22 database and the cables contained within. This goes to
23 Specifications 12 and 13 of Charge II and also Specification 2 of

1 Charge III. The Net-Centric Diplomacy database contain decades of
2 classified closely-held United States cables related to foreign
3 policy, including sources of intelligence, Your Honor. Private First
4 Class Manning began by compromising a single cable, Reykjavik13
5 because he thought it would be of interest to Julian Assange on
6 WikiLeaks, based on its subject matter at the time and Iceland -- and
7 focus on Iceland. PFC Manning was correct. After PFC Manning stole
8 the cable and WikiLeaks published it, PFC Manning claimed that the
9 effect was a recall of an ambassador. Having seen the result of his
10 actions, PFC Manning saw an opportunity for more notoriety.

11 Thereafter, PFC Manning set about to compromise the entire NCD
12 database, Net-Centric Diplomacy database. Instead of helping his
13 unit, PFC Manning took the opportunity to harvest over 250,000
14 Department of State cables for release on WikiLeaks and to the
15 world. Ms. Tann testified that a cable is an official message of the
16 Department of State and that cables can be sent between posts or
17 between posts and the Department of State Headquarters in DC. Ms.
18 Tann testified each cable contained a message resource number, MRN,
19 which is a unique identifier. Cables are used for communicating and
20 conducting United States foreign policy. Accordingly, cables are
21 often classified and contain sensitive information. Information that
22 must be closely guarded to enable the United States to conduct its
23 foreign policy effectively. Your Honor, Prosecution Exhibits 169

1 Charlie through 177 Charlie, these are the Charlie sub-exhibits for
2 169 through 177, these are the charged cables, are examples of
3 compromised cables as they appeared on the Net-Centric Diplomacy
4 database. Each cable on NCD contained a warning banner describing
5 the limit -- the limited extent of the user's authorization to view
6 each cable. Your Honor, Prosecution Exhibits 169 through 178, the
7 Alpha series of all of those, 169 through 178, Department of State
8 officials described the contents of the stolen cables. The cables
9 contained PII, such as names and the sources of the information, as
10 well as the originator of the cable itself. Using names the cables
11 identified meetings with sources, human rights activists and others
12 at risk of incarceration, torture, or death in their country of
13 origin. The cables also reveal sensitive information regarding
14 foreign relations, intelligence sources and methods, diplomatic
15 relations and foreign policy. Special Agent Bettencourt testified
16 that the purported cables posted on WikiLeaks.org span decades with
17 dates from 1966 up until 2010. And Mr. Murphy testified that the
18 charged cables, that's again Prosecution Exhibit 169 through 177 and
19 it's the Charlie series, contained information that if compromised
20 could cause harm or serious harm to the National Security. He was a
21 duly appointed OCA who testified that the cables were either Secret
22 or Confidential.

1 Your Honor, why did the Department of State create NCD?

2 Sharing the information and intelligence in cables took on increased

3 importance after September 11th. Mr. Wisecarver, he testified that

4 acting on the need for intelligence sharing; that the Department of

5 Defense provided Department of State funding to make the necessary

6 information available on SIPRNET. As a result of that funding, NCD

7 was created to share information to all users on SIPRNET. Mr.

8 Wisecarver testified that NCD was a system that was specifically

9 designed to provide the Department of Defense and the SIPRNET

10 community with access to diplomatic reporting to ensure there was

11 information sharing across the Government at all levels from privates

12 to generals. Thus, Mr. Wisecarver testified that NCD resided only on

13 SIPRNET and JWICS. Captain Lim testified that he sent an e-mail

14 telling his Soldiers that NCD could be used to accomplish their

15 mission in the S-2 shop. Captain Lim further testified that 2/10s

16 mission was to train, mentor, advise and assist Iraqi Security Forces

17 in Southeast Baghdad. Captain Lim testified that NCD was useful

18 for that mission in Southeast Baghdad but not for Iceland,

19 information pertaining to Iceland, South America, Asia or the rest of

20 the globe. Mr. Madaras testified that he never used NCD as a 35 Fox

21 because his focus was on the 2/10 area of responsibility and that was

22 in Baghdad. PFC Manning's focus should have been on the same areas

23 of operation as a Shia analyst. Your Honor, instead was using NCD to

1 accomplish his mission and support his fellow Soldiers engaged in
2 combat operations as an all-source intelligence analyst, PFC Manning
3 chose to harvest decades worth of SIPDIS, SIPR distribution cables,
4 to gain his notoriety. In his chats with Mr. Lamo, PFC Manning
5 thought he was smart enough to know what's going on in the world.
6 The day after returning from R&R leave and on 15 February 2010,
7 that's when he compromised Reykjavik13 and having observed the
8 results of stealing and disseminating that information, PFC Manning
9 went to work on reaping more cables. From late February to early
10 March 2010, PFC Manning worked on engineering a method to steal the
11 entirety of the Net-Centric Diplomacy database. Your Honor, note
12 that Mr. Wisecarver testified that a user of Net-Centric Diplomacy
13 can only access cables through the Net-Centric Diplomacy database web
14 page interface on the Department of States website. Mr. Wisecarver
15 also testified that access to cables on NCD was limited because NCD
16 allowed a user to view through a web browser or print a single cable,
17 save a single cable at a time. When asked why there's no technical
18 restrictions put in place on NCD outside of the web browser
19 requirement, Mr. Wisecarver answered that it would inhibit sharing of
20 information, be administratively difficult to manage, if not
21 impossible. Captain Lim also testified that an NCD user accessed NCD
22 through a website, a user searched for cables using key words on the
23 NCD web page. Captain Lim further testified that NCD did not have an

1 export function similar to what CIDNE had on the bottom-right of its
2 screen, click a button, export 30 days at a time. And he did not
3 save cables. He only read them for information related to his
4 mission. Your Honor, Special Agent Shaver testified that NCD was
5 accessible only through a web page and the only way to access a cable
6 was to type in the information in the search bar, click search, wait
7 for your return to come up on the web page then click the specific
8 cable in your web browser and then once the cable comes back it views
9 in the web browser and at that point you can save or print.

10 Essentially you're pointing and clicking. Mr. Wisecarver also
11 testified NCD did not allow for batch downloading. Using NCD as a
12 normal user, PFC Manning never could have accessed let alone
13 downloaded over 250,000 cables because as Captain Lim and Special
14 Agent Shaver testified, NCD only allowed a user to view one cable at
15 a time using a web browser to view a web page. This was a system
16 limitation that PFC Manning understood and had to bypass to
17 accomplish his own personal task. PFC Manning knew he could not
18 physically download over a quarter million cables manually with NCD's
19 organic functionality typing in 250,000, excuse me, Your Honor,
20 251,000 cables into a search bar, clicking on each individual one and
21 then right clicking to save or print. So he turned to what he knew
22 best from his experience with the GTMO DABs, Wget. And, Your Honor,
23 turning to Wget PFC Manning exercised a self-help remedy in order to

1 prepare a method for his compromise, or his exfiltration as PFC
2 Manning had actually called it in his personal tasking order for the
3 GAL. His personal tasking order for Department of State information
4 to create, as he said to Adrian Lamo, worldwide anarchy. Your Honor,
5 that's Prosecution Exhibit 30. The Lamo chat, Page 9, his goal to
6 create worldwide anarchy.

7 PFC Manning began by searching for Wget, again, Prosecution
8 Exhibit 157 shows that PFC Manning searched for Wget on his NIPRNET
9 computer and Special Agent Shaver testified that the search related
10 to Wget on 7 March 2010, was a search to figure out how to make Wget
11 run faster. On both 7 March 2010 and 27 March 2010, PFC Manning used
12 Google to search for the executable file Wget. Then, Your Honor, as
13 shown on Prosecution Exhibit 157, PFC Manning downloaded Wget onto
14 his NIPRNET computer. Special Agent Shaver testified that Wget was
15 in PFC Manning's SIPR user account in March of 2010 and it was
16 introduced again in May of 2010.

17 Your Honor, Special Agent Shaver testified about Wget.
18 Wget was an executable file that had been copied and placed in the My
19 Documents folder on PFC Manning's .22 SIPRNET computer. We know Wget
20 was run from PFC Manning's computer because of the Prefetch files,
21 the Microsoft Window files that save a slice of the program from
22 memory when it runs and that slice includes the exact location on the
23 hard drive or, as Special Agent Shaver called it the path, the

1 address on the hard drive for which that file ran. And each time a
2 different version or each time Wget is run from a different location,
3 a different Prefetch file is created. Your Honor, Prosecution
4 Exhibit 188, 188 shows the Prefetch files for Wget and all of the
5 locations on PFC Manning's computer that he ran Wget. Your Honor,
6 it's clear that Wget was not run by PFC Manning from a disk. So why
7 did PFC Manning have to copy Wget to his computer and run it to
8 obtain the state cables? This is very simple, Your Honor. The Net-
9 Centric Diplomacy database was only accessible by using a web
10 browser, opening the web page, typing in a search term and clicking
11 the search results. Then the user had to navigate to the web
12 browser, decided which cable he wanted to view, click that cable,
13 wait for the cable to load in his web browser and once it loaded he
14 would have to decide whether to print or save. Your Honor, Private
15 First Class Manning knew that. And he knew the process. That
16 process, the NCD and the DCGS-A computer required was not fast enough
17 or efficient enough to afford him the option to harvest over 250,000
18 cables in such a short period of time. In fact, Mr. Wisecarver
19 testified, as I mentioned earlier, that NCD database did not have a
20 function that allowed for mass downloading. So PFC Manning did, as I
21 said before also what he did best, he used Wget to bypass the NCD web
22 page and go directly to the web server to scrape all of the
23 Department of State cables directly from the web server. Your Honor,

1 Prosecution Exhibit 187 was the demonstrative aid that Special Agent
2 Shaver testified about how PFC Manning used Wget. Special Agent
3 Shaver testified that PFC Manning used Wget on his computer, the
4 bottom left, and rather than going straight up to the web page click
5 search, wait for the results to come up and then save, he went
6 directly using Wget onto the web server and was able to mass download
7 all of the Department of State cables from that database. What that
8 allowed, Your Honor, PFC Manning to do was to circumvent, to bypass
9 the exact mechanism in place on this computer system the restrictions
10 put in place of using a web browser in order to view these documents
11 and in order to go grab them and bring them on down to his computer.

12 In order to accomplish this complex task of running Wget,
13 Private First Class Manning had to take specific steps to prepare.
14 First, he had to copy and paste the list of the MRNs, those unique
15 identifiers from the database from the NCD web page into Excel. So
16 he had to query, as Special Agent Shaver testified, the newest cables
17 published after a certain date, copy all the MRNs, copy, paste and
18 then pasted them into Excel. Second, PFC Manning used Microsoft
19 Excel to automatically link together in a chain the MRNs that he
20 pasted into a Wget command line that he used the Wget help file to
21 figure out. Actually, Special Agent Shaver used the term concatenate
22 a organic function within Excel that PFC Manning had to program in
23 order to make this process to occur quickly and ultimately for

1 251,000 plus cables. Finally, Your Honor, PFC Manning copied and
2 pasted those lines from the Excel spreadsheet with the Wget commands
3 into what Special Agent Shaver testified were batch files. A batch
4 file allows you to run an executable program rapidly over and over
5 again. And Special Agent Shaver testified about the different batch
6 file extracts he found on the .22 computer. Your Honor, PFC Manning
7 used Wget to create a functionality that did not exist. Whereas Mr.
8 Wisecarver testified that the user accessed a single cable using a
9 web browser, PFC Manning accessed over a quarter million cables by
10 introducing Wget. He harvested those cables using Wget in its
11 command prompt without any action in the NCD graphical user
12 interface.

13 Prosecution Exhibit 159, Your Honor, shows the staggering
14 number of connections to the Department of State servers and the
15 firewall logs. Prosecution Exhibit 159 shows that PFC Manning's
16 computer connected to the Department of State cables firewall more
17 than 700,000 times between 28 March and 9 April; 700,000 times
18 between 28 March and 9 April. Private First Class Manning spent all
19 of his working hours over 10 days harvesting cables for the
20 transmission to WikiLeaks. Prosecution Exhibit 159 also shows that
21 his computer connected to the same firewall over 53,000 times on 3
22 May 2010 and that's when PFC Manning went back to the NCD to harvest
23 cables from March 2010 onward. Your Honor, Mr. Johnson testified

1 that PFC Manning's personal computer possessed a script, a program
2 that could convert information from a cable into what's called Base64
3 format. Your Honor, Base64 is an encoding layer that condenses
4 information to a simpler form to transmit over the internet. The
5 script had fields for both classification and message record number.
6 Undeterred by system restrictions and limitation, PFC Manning had
7 harvested as much information as possible in the shortest amount of
8 time and thus he had to reintroduce Wget onto his computer at this
9 time. So at the end of his nearly two-week mission in March and
10 April 2010, PFC Manning had harvested more than 250,000 cables. The
11 evidence showed that he harvested those cables and packaged them and
12 compressed them using Base64 for transmission to WikiLeaks.

13 Your Honor, Prosecution Exhibit 102 is a printed version at
14 the very top of the worksheet in that -- what's named the backup.xlsx
15 file that was left on the .22 computer. Backup.xlsx. This is a
16 Microsoft Excel file. Your Honor, that printed worksheet,
17 Prosecution Exhibit 102 shows how PFC Manning cataloged every single
18 cable he harvested from NCD. The first line on that worksheet, Your
19 Honor, is 251,288. Your Honor, I'll talk about that number in a
20 moment, but Prosecution Exhibit 104 that shows backup.xlsx, that was
21 created on 3 May 201 and that's in that bloop folder we have talked
22 about.

23 MJ: And it was created when?

1 TC[MAJ FEIN]: I'm sorry, ma'am?
2 MJ: Created when?
3 TC[MAJ FEIN]: 3 May 2012, Your Honor. And that was in the
4 bloop folder in PFC Manning's My Documents. Prosecution Exhibit 104
5 also showed that files.zip, another file was created on 4 May 2010, 4
6 May 2010. And, Your Honor, the volumes.txt, the volume mounting data
7 from the SIPRNET computer shows, that's Prosecution Exhibit 127,
8 shows tha ----

9 MJ: 157?

10 TC[MAJ FEIN]: 127, Your Honor.

11 MJ: Okay.

12 TC[MAJ FEIN]: Your Honor, the volumes.txt file shows that a
13 file named files.zip was burned to a CD on his SIPRNET computer that
14 same day, 4 May 2010, and ultimately moved to PFC Manning's personal
15 Mac.

16 Your Honor, on 31 August 2011, WikiLeaks published 251,287
17 purported Department of State cables without any redactions. That
18 number is very important. I stated earlier PFC Manning left behind a
19 file on his ----

20 MJ: What was the number?

21 TC[MAJ FEIN]: 251,287, Your Honor.

22 MJ: Okay.

1 TC[MAJ FEIN]: And, Your Honor, if you recollect, the
2 backup.xlsx file started with the number 251,288. While WikiLeaks
3 published the 251,287 purported cables that were dated through
4 February 2010, the purported cables WikiLeaks released did not
5 include March, April and May 2010. Private First Class Manning had
6 the cables from March through May 2010 ready to go with his starting
7 number in that backup.xlsx file of 251,288. And those were the
8 cables, Your Honor, located in the files.zip file that Special Agent
9 Shaver testified. This number of course, 251,288, is the next
10 number in line after 251,287. That is -- So ultimately, Your Honor,
11 PFC Manning, PFC Manning reintroduced Wget to go back and harvest the
12 remaining cables starting with 251,288 because he had already
13 compromised to WikiLeaks 251,287 purported cables that they released
14 unredacted. His determination and persistence had not ceased. He
15 wanted more to increase the effect in his future notoriety. When he
16 extracted the records from NCD to his personal computer, PFC Manning
17 completed the theft -- his theft of those records. The NCD records
18 were stored on a classified system where only authorized personnel
19 with a need-to-know could access them. At no time was PFC Manning
20 authorized to house those records on his personal computer.
21 Furthermore, PFC Manning converted the information in the cables from
22 NCD when he conveyed them to the WikiLeaks for release. Private
23 First Class Manning specifically intended for the cables to be

1 published and WikiLeaks obliged. The United States devoted
2 significant resources to protect the classified information within
3 NCD. Mr. Lewis testified that foreign intelligence services will pay
4 for information precisely because its exclusive possession provides
5 significant benefit to the United States. By causing the cables to
6 be published, Private First Class Manning substantially interfered
7 with the United States' ownership rights of exclusive possession of
8 that classified information in the records.

9 Your Honor, the United States requests that the accused and
10 Major Hurley relocate to the witness stand and I will hand Appellate
11 Exhibit 617 to both the Defense and the Court.

12 [There was a brief pause while the accused and Major Hurley relocated
13 to the witness stand.]

14 TC[MAJ FEIN]: Your Honor, Mr. Lewis testified that the foreign
15 intelligence services of multiple countries actively seek information
16 contained in the Net-Centric Diplomacy records and would pay for
17 records from the Net-Centric Diplomacy Database. The foreign
18 intelligence services seek information pertaining to United States
19 strategic plans and specific geographic areas as detailed in
20 Classified Reason Number 5. Mr. Lewis testified that Country 3 would
21 pay well over \$1,000 for the records in the Net-Centric Diplomacy
22 database as set forth in Classified Reason Number 6. Mr. Lewis
23 testified that he conducted a search of the Net-Centric Diplomacy

1 data by using specific groups of key words. Based on his search he
2 received 900 responsive hits. The hits constituted 900 separate
3 documents or cables. Mr. Lewis testified that Country 3 would pay
4 over \$2,000 per document related to the searched key words.
5 Therefore, Your Honor, the Net-Centric -- according to Mr. Lewis, the
6 Net-Centric Diplomacy database is worth over \$1.8 million to foreign
7 intelligence services.

8 Your Honor, the United States retrieves Appellate Exhibit
9 617 from the Defense and the Court.

10 Now, Your Honor, what about Wget? PFC Manning knew that he
11 was not authorized to introduce Wget on a Government computer. Chief
12 Ehresman testified that Soldiers are not allowed to introduce
13 programs onto their computer. They're allowed to run a program from
14 a CD with authorization. Both Chief Ehresman and Mr. Milliman
15 testified that if a user wanted to add software, the user would first
16 have to check with Mr. Milliman for approval. Mr. Milliman, a DCGS-A
17 contractor, testified that he told the entire unit during a shift
18 change brief in the first month of deployment that he owned the
19 computers and was the proper authority. Your Honor, the first month
20 of deployment for PFC Manning would have ended, the first full month
21 would have ended at the end of November, Your Honor, well before
22 March 2010. Ms. Florinda White testified that Wget was not
23 authorized for DCGS-A computers. Mr. Kitz also testified that Wget

1 was not authorized. PFC Manning introduced the Wget program without
2 requesting authorization. Wget was unlike any other program that was
3 openly used by Soldiers in the SCIF. No one else even knew what it
4 was or what it was capable of doing that came and testified here in
5 this court martial, Your Honor. So when does the Army allow Wget on
6 its networks, Your Honor? Well, Chief Rouillard testified, I'm
7 sorry, Your Honor, to correct what I just said, no witness from 2/10
8 Mountain that was deployed in Iraq at the time had ever heard of Wget
9 including, Captain Cherepko and Mr. Milliman when they were deployed.
10 You did hear, Your Honor, from Chief Rouillard who testified that
11 Wget is used in his OPFOR capacity for attacking Army networks. He
12 uses Wget to attack the Army networks. And that's only in
13 circumstances that he's ever been authorized to introduce Wget to a
14 Government computer system. He did penetration testing. Chief
15 Rouillard further testified that Wget can be used in spear phishing
16 and social engineering attacks and both Captain Cherepko and Chief
17 Rouillard testified that Wget scrapes entire web sites and retrieves
18 any data that it is so programmed to extract. Your Honor, Mr. Weaver
19 testified, he was one of the main authors of 25-2, he testified that
20 introducing authorized software -- unauthorized software violated 25-
21 2. Mr. Weaver testified that the authority to add software is
22 reserved to specified administrators. PFC Manning did not have
23 administrator privileges on any of his computers. Mr. Weaver

1 testified that introducing software or creating elevated privileges
2 constituted a bypass of authorized mechanisms. He testified that
3 only automated functions a user possessed were those that came
4 installed on the system as authorized by the Army. He testified that
5 a commander could authorize music and games on a computer system.
6 Mr. Weaver also testified that a user had personal responsibility
7 under 25-2. Finally he testified that a user couldn't add executable
8 files or Wget specifically under AR 25-2. Your Honor, as Mr. Kitz,
9 expert on DCGS-A testified that one program that Soldiers did use
10 mIRC chat, had been authorized as part of a technical bulletin that
11 gave commanders the authority to use the program. Colonel Miller
12 testified in regarding 2/10 Mountain's use of mIRC chat as part of
13 the mission. Colonel Miller testified that music, movies and games
14 would have authorized for morale and to the best of his knowledge
15 were not self-executable files. There's been evidence, Your Honor,
16 of movie files to include music, movies and games from the T-drive,
17 the share drive the brigade staff used; but there has been no
18 evidence through testimony or otherwise admitted that music, movies
19 and games were actually introduced to the T-drive or to any SIPRNET
20 computer by any particular Soldier. There has been no evidence
21 presented that movies, music or games are executable programs.
22 Additionally, there's been no evidence that storage of movies, music
23 and games were prohibited. Just the introduction, the introduction

1 is what AR 25-2 regulates. The introduction of music, movies and
2 games onto a computer system when they're not authorized is
3 prohibited. Mr. Weaver testified that there is a significant
4 distinction between introduction and storage of files according to
5 the regulation. Mr. Weaver distinguished this for moving files
6 already on a network like the T-drive because moving files is
7 traditionally authorized under AR 25-2. So, while movies, movies and
8 games and authorized programs like mIRC chat were actually authorized
9 by the commander, Wget was not. As stated before, was unknown to
10 every single witness who testified and was in Iraq and FOB Hammer at
11 the time Private First Class Manning was there.

12 Your Honor, and how Private First Class Manning used Wget
13 informs the knowledge that he knew it was unauthorized. He used Wget
14 in secret. He never asked for permission to use Wget. And Chief
15 Rouillard testified that someone could not even see Wget from five
16 feet away. It's a command prompt run program. Special Agent Shaver
17 testified that Wget could be run in the background. Chief Rouillard
18 testified that unlike mIRC chat that has a window with chat rooms on
19 it, no one who has never seen Wget before would know what it is. And
20 Sergeant Sadtler, Your Honor, he testified that Private First Class
21 Manning had the habit of locking his screen to hide what he's doing
22 on his computer even when he was still sitting at his computer if
23 another individual walked up.

1 Your Honor, the United States is not arguing that PFC
2 Manning was prohibited from accessing the NCD database itself or from
3 downloading individual cables through the NCD database interface.
4 However, PFC Manning was only authorized to do so through using a web
5 browser installed on his DCGS-A SIPRNET computer because that is the
6 tool, the program the United States Army gave him to accomplish that
7 mission and he was not authorized to install or copy any other
8 programs onto his computer. He copied Wget onto his computer for one
9 purpose and one purpose only, and that was to access the NCD web
10 server directly and scrape it for all the Department of State cables.

11 Your Honor, the next set of specifications and the dataset
12 is the Farah investigation. This is Specification 10 of Charge II.
13 Specification 10 of Charge II. Your Honor, earlier you heard that
14 PFC Manning began helping WikiLeaks in late 2009 when he compromised
15 the video BE22PAX.wmv, the Gharani airstrike video. The video of the
16 military operation in the town of Gharani in the Farah province of
17 Afghanistan. That military operation resulted in USCENTCOM
18 conducting a formal investigation into the circumstances surrounding
19 the civilian casualty incident. The United States CENTCOM stored the
20 contents of that investigation, as you have already heard from me, in
21 a folder named Farah on the CENTCOM SJA webpage that is only
22 available on SIPRNET. BE22PAX.zip and wmv was located in the videos
23 subfolder. Your Honor, 4 months after compromising BE22PAX.zip and

1 the video within it, Private First Class Manning returned, he
2 returned to the Farah folder located on the CENTCOM SJA web page to
3 download and compromise the remaining documents related to that
4 investigation. Special Agent Shaver testified that on 10 April 2010,
5 PFC Manning visited Farah folder. Within 2 hours PFC Manning had
6 downloaded more than 330 investigative files from the Farah folder
7 onto his SIPRNET computer. Your Honor, Prosecution Exhibit 129, 129
8 is an excerpt of the CENTCOM SharePoint logs showing when PFC Manning
9 downloaded the documents from the CENTCOM website. Your Honor,
10 Prosecution Exhibit 128 is a summary of the portion of index.dat file
11 on PFC Manning's SIPRNET computer showing many of the documents PFC
12 Manning downloaded from the CENTCOM website on his SIPRNET computer.
13 As I explained earlier, Your Honor, Prosecution Exhibit 128 shows PFC
14 Manning's computer connecting to the SharePoint server and then
15 Prosecution Exhibit 129 are the SharePoint logs showing PFC Manning -
16 - or showing files being downloaded. As noted earlier, Special Agent
17 Shaver testified that PFC Manning did not take the video titled
18 BE22PAX.zip and wmv or any other zip file on 10 April 2010. No files
19 were downloaded that day from the CENTCOM website. Why not, Your
20 Honor? The United States argues it's obvious, he had already done
21 it, he had already taken the videos. Why did he wait until 10 April
22 2010, to download and compromise the documents related to military
23 operation? Why decide then in April -- 10 April 2010? Your Honor,

1 it's during this time from starting 5 April 1010, to be exact that
2 WikiLeaks released the Apache video between 7 and 10 April 2010, and
3 annotated in Prosecution Exhibit 81, those are the Intelink search
4 logs, specifically Lines 628 through 640, 628 through 640. PFC
5 Manning searched Intelink for WikiLeaks 11 times and 'Collateral
6 Murder' twice. He was monitoring and reveling in the reaction to the
7 Apache video. Your Honor, PFC Manning saw the rippling effects
8 caused by the release of the Apache video less than a week earlier
9 and he craved the same effect of that Gharani military operation
10 especially considering WikiLeaks had the video since before Christmas
11 and hadn't released it yet.

12 Private First Class Manning knew the charged documents for
13 Specification 10 were classified. These documents were probably
14 marked SECRET. Of the 10 charged documents consisting of 141 pages,
15 90 pages are marked SECRET at the top and bottom of the pages and a
16 total of 504, 504 classification markings, including the paragraph
17 markings, appear in total. Your Honor, the documents were located on
18 the SIPRNET on the CENTCOM SharePoint page as explained earlier with
19 respect to the compromise of the video. Each of these web pages had
20 a SECRET banner across the top that said "SECRET" multiple times.
21 And as a user drilled down into the actual video in the investigation
22 folder, each page had that same SECRET banner. Your Honor, Mr. Hall,
23 a former intelligence analyst and expert testified that intelligence

1 analysts are trained to handle classified documents according to
2 their classification markings and that only an OCA is in a position
3 to say otherwise. Further, many former unit colleagues of PFC
4 Manning testified that their trained practice is to treat information
5 on SIPRNET as classified. Your Honor, even PFC Manning's two non-
6 disclosure agreements that he signed specifically state that if he's
7 uncertain about the classification and status he is required to
8 assume it's classified unless he's told otherwise by competent
9 authority. The charged documents for Specification 10 relate to the
10 national defense of the United States. Lieutenant Commander Hoskins
11 and Mr. Nehring, excuse me, Lieutenant Colonel Retired Nehring, both
12 testified that the charged documents contained the type of
13 information which can cause serious harm in national security and
14 thus should be Secret. And then Vice Admiral Harward, the Deputy
15 Commander of USCENTCOM, and an OCA, testified that all the documents
16 were properly classified at Secret level. Your Honor, multiple
17 witnesses testified that the charged documents contained TTPs, troop
18 movements, close air support, troops in combat, graphics showing
19 troop movements, operational activities, weapon systems and code
20 words. And finally, Your Honor, the United States Government has
21 never made those documents of the Farah investigation, the classified
22 documents, available to the public.

1 Your Honor, the Global Address List, this is Specification
2 16 of Charge II, also Specification 3 of Charge III, excuse me, Your
3 Honor, Specification 4 of Charge III. Your Honor, there's no
4 coincidence that on the same day of having PFC Manning's SIPRNET
5 connection severed ----

6 MJ: I'm sorry, which specification did you say is Charge III?

7 TC[MAJ FEIN]: Specification 4, Your Honor. Your Honor, it's no
8 coincidence on the same day having the SIPRNET connection severed by
9 being removed from the SCIF that WikiLeaks set out a net call for as
10 many .mil e-mail addresses. 7 May 2010, 'we would like a list of as
11 many .mil e-mail addresses as possible. Please contact the
12 editor@wikileaks.org or submit'. Your Honor, PFC Manning saw this
13 Tweet and jumped at the opportunity to continue disclosing closely-
14 held information to WikiLeaks. Especially after being removed from
15 the area with readily available SIPRNET. Special Agent Williamson
16 testified that shortly after the Tweet was published on 1 May, PFC
17 Manning searched for macros to extract the GAL. What does that mean,
18 Your Honor? He searched for a process in order to extract the Global
19 Address List. And by 13 May, PFC Manning had extracted the Global
20 Address List and deleted the stolen files. Specification 4 of Charge
21 III accounts for this criminal misuse of the NIPRnet and Global
22 Address List information system and Specification 16 is the theft of
23 the Global Address List for his own personal use. Your Honor,

1 Specification 4 of Charge III charges PFC Manning with violating AR
2 25-2, Paragraph 4-5A3 by using an information system in a manner
3 other than its intended purpose. According to AR 25-2 information
4 systems includes computers as well as set of information resources
5 like the Microsoft Exchange Global Address List. Chief Nixon
6 testified that the GAL is a US Government product which populates
7 information at the organizational level ultimately listing every
8 person, entity, and machine within a given domain, and in this case
9 that's Iraq. It is the interface Outlook users use as a directory
10 for e-mails and other contact information. The GAL provides each
11 user's e-mail address. The first line, Your Honor, John, we'll say,
12 Doe@Iraq.CENTCOM.mil. It also provides their user names for their
13 accounts on NIPRNET. John.Doe, Tasha.Doe, Sean.Doe. Their user
14 names to log onto NIPRNET. You also heard testimony from Chief
15 Rouillard that the Department of Defense uses the same -- tries to
16 use the same user names in all e-mails addresses in order to
17 deconflict potential over-redundancies. Also, Your Honor,
18 individuals' full names, including their unit, office and duty
19 description is included in this information. Christopher,
20 Specialist, 1AAB, an S-2 analyst. Prosecution Exhibits 47, 48, 147,
21 there's going to be a few exhibits here, Your Honor. Prosecution
22 Exhibits 47 and 48 are the entire listing of the 74,000 entries. One

1 for the names and one for the e-mail addresses. That's PEs 47 and
2 48.

3 Your Honor, Prosecution Exhibits 147 and 148 are the 20-
4 page extracts the witnesses referenced on the stand. The A are the
5 unredacted forms and the Bravos are the ones you're looking at right
6 here, Your Honor. This information is the entire compromised Global
7 Address List as PFC Manning had access and the extracts used by those
8 witnesses that I just explained. The first portion of an e-mail
9 address is that individual's user name and as I mentioned a moment
10 ago, Your Honor, this portion not only does it have their name, but
11 their rank, their office and their, potentially their location of
12 where they're working. Your Honor, according to Chief Rouillard, in
13 many cases the user names continue for that deconfliction. Knowing
14 user names makes the listed individuals more vulnerable to attack.
15 The information provides adversaries of a list of likely longstanding
16 e-mails addresses for use in spearfishing and social inter --
17 engineering schemes. Moreover, Your Honor, in the hands of adversary
18 -- of an adversary intelligence organization, the list is a virtual
19 directory; a directory of persons with security clearances as you
20 just saw and intel analysts or sensitivity positions as well as
21 potential map for the unit structure. In short, Your Honor, the GAL
22 becomes a phone book for exploitation. The release of this list
23 would render the information and potentially even the physical

1 security of everyone on the list vulnerable. Vulnerable to
2 exploitation and ultimately compromise the effectiveness of the
3 countless missions that those Soldiers are working. Chief Rouillard
4 testified that the GAL would be one of the top records that he would
5 seek as an OPFOR operator.

6 So, Your Honor, according to Sergeant Bigelow, PFC Manning
7 left the S-2 shop on approximately 8 May 2010, and started working in
8 the supply room around 9 May 2010. PFC Manning was upset at the move
9 but most thought it was entirely because of the fight he had with his
10 fellow Soldier, but he was actually upset because he lost his all-
11 access pass to SIPRNET and his security clearance which he needed to
12 keep in order to continue compromising classified information. PFC
13 Manning, however, quickly found something else. Something that he
14 could do to maintain relevance in the fast moving disclosure world
15 and that was based off the WikiLeaks Tweet. PFC Manning quickly set
16 about refocusing his energies on NIPRNET and created a tasker for
17 himself in the process. This is Prosecution Exhibit 122, Your
18 Honor. A recovered tasker for PFC Manning to exfiltrate the Global
19 Address List. This tasker also mentions exfiltrating the CIDNE
20 records under "purpose." Always organized and thorough PFC Manning
21 created a tasker to describe his mission to steal information from
22 CIDNE and did so also for the GAL. Acquiring and exfiltrating the
23 Global Address List from the US Forces-Iraq Microsoft Outlook

1 SharePoint exchange server. It's very precise, Your Honor, to e-mail
2 the classified messages from USFI's CIDNE event log; method, acquire
3 the documents and the exact target. Prosecution Exhibit 122.

4 Your Honor, Special Agent Williamson, forensic examiner
5 testified that he found Google search page results related to the
6 computer programming to extract that information from a GAL. The
7 first search was for, "Global Address List Macro Outlook", and it
8 returned what has been marked as Prosecution Exhibit 144.

9 MJ: What was the name of the search?

10 TC[MAJ FEIN]: Your Honor, it's Global Address List Macro
11 Outlook, which is also written down in the search field on
12 Prosecution Exhibit 144. What's clear from looking at the Google
13 search results, Your Honor, is that that search term brings up
14 potential pages in order to figure out how to extract and exfiltrate
15 that information from Outlook because Outlook did not have a function
16 to allow for the e-mails to be pulled out in batch. The second
17 search was for, "VBA, Outlook write text file", "VBA, Outlook write
18 text file". And that returned the search results that are at
19 Prosecution Exhibit 145, PE 145.

20 Your Honor, VBA stands for, as Special Agent Williamson
21 said, Visual Basic. Visual Basic is a program within Microsoft
22 Outlook, or excuse me, Microsoft Office that allows simple
23 programming in order to have the Microsoft Office Tools programs

1 complete automated tasks. And that was another process that Private
2 First Class Manning researched in order to figure out how, how to get
3 around the limitation within Outlook of downloading and exfiltrating
4 all the e-mails. Special Agent Williamson also testified that Visual
5 Basic and macros are the ways you could do that. Outlook can only
6 save e-mails by user clicking on "save as" and selecting .txt file
7 type. Outlook does not have a function to mass export. Special
8 Agent Williamson also recovered two different types of files related
9 to the Global Address List from Staff Sergeant Bigelow's computers.
10 Those two files, Your Honor, are what are in, from his testimony,
11 Prosecution Exhibits 47 and 48. The names and then the e-mails
12 files. Although under Staff Sergeant Bigelow's account Special Agent
13 Williamson testified that this is ample evidence that PFC Manning
14 used that account at the same time to check his email on Gmail,
15 financial records, reach out to Adrian Lamo and search for WikiLeaks
16 and Julian Assange on the internet. According to Mr. Johnson,
17 there's evidence that PFC Manning moved these files, the names and
18 the e-mail text files, to his personal computer. As you heard from
19 Mr. Johnson he found thousands of exchange formatted names and e-
20 mails in unallocated space. This act was precisely the same process
21 PFC Manning followed each time he found a disclosed classified
22 material. He would use the US Government system to manipulate the
23 data, download the information from the Government system, transfer

1 the data to his personal computer either by CD or in this case
2 because it's unclassified through e-mail and then package it,
3 transmit the information to WikiLeaks and then delete the
4 information. The information doesn't appear, Your Honor, in the
5 unallocated space of the computer unless PFC Manning took the
6 additional step of deleting it out of his recycle bin or trying to
7 permanently delete it off of the computer. He took all the same
8 steps with the GAL information as he had previously done with each
9 disclosure. Each of these circumstantial pieces of evidence
10 corroborates the manner, timeline and impetus behind his actions and
11 proven forensically. You recall that Chief Rouillard and Chief Nixon
12 testified that the purposes of the US forces Iraq Global Address List
13 was to facilitate official communications. Chief Nixon testified
14 that user granted permissions to search for e-mail addresses but not
15 mass download them. Microsoft Outlook nor NIPRNET computers had a
16 function to export or download all the email addresses. So, PFC
17 Manning had to create a method by programming in visual basic.
18 Everyone in Iraq who had an e-mail account used and was listed in the
19 Global Address List directory.

20 Your Honor, we know that PFC Manning's conduct violated AR
21 25-2 by using an information system in a manner other than intended
22 purpose. PFC Manning downloaded the U.S. Government information from
23 an Army information system to his user account but to another user's

1 account that belonged to a supervisor, Sergeant Bigelow. PFC Manning
2 did not have permission from his supervisor to do this, nor did he
3 have permission from the Army or individuals whose private
4 information he took. He had no official or legitimate reason for
5 this action. PFC Manning took the information out of the safe
6 confines that protected the United States Government information
7 system and the network for his own personal desires by e-mailing
8 through his either Gmail account or burning it onto a CD. The GAL
9 information ultimately ended up on his unsecure personal computer and
10 on the internet that his -- well on his personal computer connected
11 to the internet. Private First Class Manning exposed the sensitive
12 personal information of his brothers and sisters in arms, including
13 all the civilians deployed in Iraq within the 74,000 names. He
14 exposed all that information to foreign intelligence collection as
15 well as spear phishers and other electronic invasion schemes. PFC
16 Manning told Adrian Lamo that adversaries used spear phishing, he
17 used the word spear phishing, Your Honor, to attack the United
18 States. PFC Manning noted that the adversaries are not successful
19 typically because they can't penetrate the air gap. Instead, it was
20 PFC Manning, Your Honor, who penetrated the air gap, meaning the
21 connection between the US Government systems and the rest of the
22 internet. PFC Manning's actions likely exposed the system relied
23 upon by these Servicemembers to electronic intrusion as he knew this

1 from his IA training. Chief Nixon and Chief Rouillard testified
2 there would be no reason, Your Honor, no reason to download the
3 Global Address List because without access to an exchange server a
4 person couldn't even send an official e-mail. When you have access
5 to the exchange server, you automatically have access to the Global
6 Address List. The property underlying this offense is the
7 information contained within the GAL. The value of the information
8 is established is by the independent pieces of evidence.

9 Your Honor, the issue here is whether the 74,000 e-mails
10 were worth more than the statutory limit for the 641 offense. Chief
11 Nixon testified that dozens of Servicemembers worked on creating and
12 entering the information for each user that goes onto the GAL. Every
13 time a new user data, the Soldier entered that information, Chief
14 Rouillard testified they would take at least 10 minutes to create a
15 new account in the GAL. For 74,000 e-mails that is 740,000 minutes,
16 or over 12,000 hours or over 51 days straight with no sleep for one
17 Soldier to create every GAL entry that PFC Manning stole. Chief
18 Rouillard testified that Soldiers ranking from Specialist to Chief
19 Warrant Officer 4 created Global Address List entries. In 2010 a
20 Soldier at the rank of -- or the grade of E4 rank the Specialist
21 earned approximately \$1,800 per month, which also is approximately
22 \$11.00 per hour assuming a 40-hour work week. At a rate of \$11.00
23 per hour for 1,233 hours it would cost over \$145,000 to create the

1 entries for the GAL. Thus, the salary for a specialist to create
2 each e-mail address and associated information that PFC Manning took
3 when he stole the GAL would well exceed \$1,000. Your Honor, overall
4 the portion of the USFI GAL that PFC Manning took, he stole, consists
5 of 74,000 users. It is clear that -- excuse me, Your Honor, Mr.
6 Lewis testified that the foreign intelligence services of multiple
7 countries actively seek information in the GAL and would pay for the
8 GAL.

9 Your Honor, for the last time, the United States requests
10 that the Defense relocate to the witness box and I'm going to hand
11 Appellate Exhibit 617 to the Court and the accused.

12 [There was a brief pause while the accused and Major Hurley moved to
13 the witness box.]

14 TC[MAJ FEIN]: Your Honor, the foreign intelligence services
15 seek information pertaining to specific individuals and associated
16 organization information as detailed and Classified Reason Number 9.
17 Mr. Lewis emphasized that a block of information is more valuable to
18 foreign intelligence services. The GAL reveals unit strength and can
19 be associated with other intelligence to increase adversarial
20 understanding of the United States TTPs because the GAL states duty
21 positions and units. Thus, Mr. Lewis testified that Country 5 and
22 their intelligence services would pay over \$3,000 on the low end for
23 the records in the GAL as set forth in Classified Reason Number 10.

1 Your Honor, the United States is -- or I will retrieve
2 Appellate Exhibit 617 from the Court and the accused.

3 In this case, Your Honor, as PFC Manning took the
4 deliberate actions I previously described to target, extract, and
5 transfer and then hide US Government information, all for the
6 unofficial purpose of transferring this information to WikiLeaks
7 because they asked for it, in doing so, Your Honor, you heard
8 testimony that PFC Manning deliberately placed all US Government
9 employees and Soldiers in Iraq at personal risk by removing their PII
10 from the NIPRNET protected system. This PII, by Army Regulation 25-
11 2, is sensitive information that shouldn't be placed on a personal
12 computer. When Private First Class Manning extracted the GAL to his
13 personal computer he completed his theft of those records. The GAL
14 was stored on an unclassified system where only unauthorized or only
15 authorized personnel could access them. At no time was Private First
16 Class Manning authorized to house the GAL on his personal laptop.
17 Mr. Lewis testified that foreign intelligence services will pay for
18 this type of information precisely because its exclusive possession
19 by the United States Government, provides a significant benefit.

20 Your Honor, at this time the United States recommends we go
21 in one final recess and then finish the closing.

22 MJ: All right.

23 TC[MAJ FEIN]: Or keep going, Your Honor.

1 MJ: No. This is a good time to take a 15-minute recess. I'd
2 like to see counsel in my chambers to talk about the way ahead during
3 that recess. Court is in recess.

4 [The court-martial recessed at 1636, 25 July 2013.]

5 [The court-martial was called to order at 1658, 25 July 2013.]

6 MJ: Court is called to order. Let the record reflected all
7 parties present when the Court last recessed are again present in
8 court. Before we proceed with the remainder of the Prosecution's
9 closing argument, counsel and I met in chambers briefly over the
10 recess to look at the way ahead.

11 First of all, we discussed the Court granted three
12 amendments to the Charge Sheet and the Government has not made those
13 yet so the Government will do that in recess, Xerox copy of the
14 original Charge Sheet that has the charges at arraignment.

15 And secondly, in light of the time, what we are going to do
16 is finish the Government's closing argument today. We'll start at
17 0930 tomorrow with the defense closing argument and rebuttal by the
18 Government if they have any. Is there anything else we need to
19 address before we proceed?

20 CDC[MR. COOMBS]: No, Your Honor.

21 TC[MAJ FEIN]: No, Your Honor.

22 MJ: Go ahead.

1 TC[MAJ FEIN]: Your Honor, Specification 1 of Charge II. In
2 total PFC Manning compromised more than 700,000 classified documents
3 to WikiLeaks and unquestionably knew that anything he compromised to
4 WikiLeaks would be released to the public on the Internet. And how
5 did he know that, Your Honor?

6 MJ: Are you doing Specification 1 of -- the Specification of
7 Charge I or Specification 1 of Charge II?

8 TC[MAJ FEIN]: Your Honor, Specification 1 of Charge II.

9 MJ: Okay.

10 TC[MAJ FEIN]: How do we know that, Your Honor? How do we know
11 that PFC Manning unquestionably knew that anything he compromised to
12 WikiLeaks would be released to the public on the internet? First, he
13 repeatedly reviewed intelligence reports discussing the WikiLeaks'
14 mission and its operations no later than 1 December 2009. This
15 included the ACIC report, IRR and C3 document, which all, all of them
16 explicitly told PFC Manning anything he provided to WikiLeaks would
17 be released to the public.

18 Second, his chat to Julian Assange. While committing his
19 reckless disclosures, PFC Manning contemporaneously engaged in online
20 chats with Julian Assange and urged him to release the documents
21 previously provided by him, the ones that were not released.

1 Third, his constant research of the world's reaction when
2 the documents he compromised to WikiLeaks were released to the
3 public.

4 And, fourth, his chats with Adrian Lamo where he relived
5 his criminal acts.

6 Your Honor, PFC Manning chose to compromise the documents
7 to WikiLeaks because he knew that WikiLeaks would release them on the
8 internet. So what did PFC Manning cause to be published on the
9 internet? The Court took judicial notice of the following facts: On
10 15 March 2010, WikiLeaks released the ACIC report, an actual Intel
11 report measuring the threat caused by WikiLeaks. On 5 April 2010,
12 WikiLeaks released the Apache video of the actual military operation.
13 On 25 July 2010, WikiLeaks released more than 75,000 SIGACTS from the
14 CIDNE-A database.

15 MJ: What was the date of that?

16 TC[MAJ FEIN]: 25 July 2010, Your Honor.

17 MJ: Thank you.

18 TC[MAJ FEIN]: And that contained actual tactical reports of
19 significant events occurring in Afghanistan. On 22 October 2010,
20 WikiLeaks released more than 390,000 SIGACTS from the CIDNE-I
21 database and that -- those containing actual tactical reports of
22 significant events occurring in Iraq. Your Honor, 27 and 28 November
23 2010, WikiLeaks began releasing the Department of State cables and

1 that is what the Court took judicial notice of and Special Agent
2 Bettencourt testified that on 31 August 2011, all the cables,
3 purported cables were released by WikiLeaks and those were actual
4 reports showing how we conduct foreign relations. Your Honor, 25
5 April 2011, WikiLeaks receives more than 700 GTMO DABs, detainee
6 assessment briefs, that were actual reports containing intelligence
7 relating to the particular detainees. Each of these records, Your
8 Honor, were produced by United States Government, stored on the
9 SIPRNET, and were integral to the war against terrorism or US foreign
10 policy and diplomacy.

11 Witnesses testified that the ACIC report, Apache video,
12 SIGACT database, NCD database, SOUTHCOM database, all contained
13 actual and true information thus intelligence. This intelligence was
14 accessible to PFC Manning and PFC Manning made this intelligence
15 accessible to the world on the internet through WikiLeaks. Your
16 Honor, you have heard evidence that PFC Manning knew he was not
17 authorized to transmit these classified documents to WikiLeaks and
18 WikiLeaks was not authorized to receive classified information. It
19 did not meet the three criteria that PFC Manning knew too well.

20 You have also heard on, well -- an overwhelming amount of
21 evidence that PFC Manning knew that the enemy uses the internet to
22 gather intelligence. Specification 1 of Charge II requires the
23 United States to prove that Private First Class Manning acted

1 wantonly when he caused this intelligence to be published on the
2 internet, whether all the circumstances his conduct was that he --
3 that a type that's of a heedless nature that made it actually or
4 eminently dangerous to others. The evidence without question is
5 overwhelming to prove, at the very least is utter recklessness.

6 PFC Manning compromised more than 700,000 classified
7 documents during the course of his 7-month deployment. That's
8 100,000 documents per month, 3,300 documents per day, 138 documents
9 per hour and more than two documents every minute. Your Honor, there
10 is absolutely no way he even knew what he was giving to WikiLeaks as
11 far as the entire large databases. Instead, he learned the exact
12 details of what he compromised the same time as the public and the
13 enemy. The individual details, PFC Manning, without question,
14 understood this risk. He told Adrian Lamo that Hillary Clinton and
15 several thousand diplomats around the world were going to have a
16 heart attack when they woke up one morning and find an entire
17 repository of classified foreign policies available in searchable
18 format to the public. He recognized that and even acknowledged that
19 his actions will affect everybody on earth in the same chats.

20 Lastly, Your Honor, the United States proved that PFC
21 Manning's misconduct was prejudicial to good order discipline and
22 service discrediting, not just for Specification 1 of Charge II, but
23 also for all of the specifications of Charge II. Colonel Miller,

1 Colonel Miller testified that the last thing he expected was an
2 internal security breach from one of his own, an insider threat from
3 within his ranks. According to Colonel Miller, when he briefed the
4 staff about PFC Manning's actions, a funeral-like atmosphere fell
5 over the crowd. They were angry, sad, grieved and frustrated all at
6 the same time. Colonel Miller testified that before the scope of PFC
7 Manning's misconduct was revealed, the unit morale was at an all-time
8 high. As they had just completed their mission requirements,
9 everything was going well with the Iraqi Security Forces and they
10 were beginning to do draw-down in order to redeploy to Fort Drum.
11 Soldiers that had been on numerous prior deployments within the most,
12 as he testified, the most deployed brigade in the United States Army,
13 were finally seeing the fruits of their labors over the past 10 years
14 come to fruition. And then, Your Honor, PFC Manning's covert actions
15 came to light. His misconduct completely shook the entire brigade,
16 according to Colonel Miller. Colonel Miller testified that the
17 morale took a hit. It took a hit as a result of PFC Manning's
18 actions. The unit collectively felt it was a blemish on its
19 otherwise stellar record. PFC Manning's recklessness negatively
20 impacted the trust in the formation. Colonel Miller testified that
21 trust in the information is the foundation of everything we do in the
22 military. Every Soldier has to know that every other Soldier is
23 doing their job and they have to trust each other in order to stay

1 focused on their mission. Every Soldier has to rely on each other
2 and know that they have each other's backs. Those are the words of
3 Colonel Miller, Your Honor. If there's a distraction and a Soldier
4 has to look to his left and right when he's supposed to be looking in
5 front of him, then his eyes are off his job and the foundation of the
6 military starts to crumble. Your Honor, according to Colonel Miller,
7 the US Army relies on trust, and PFC Manning's actions caused the
8 morale of the unit to take a hit to with degraded the operational
9 effectiveness of his formation. Thus, Your Honor, it was prejudicial
10 to good order and discipline discrediting.

11 Your Honor, Article 104, aiding the enemy by giving
12 intelligence. Your Honor, PFC Manning deliberately transmitted the
13 Apache video, certain Department of State information, and the CIDNE-
14 A SIGACTS to WikiLeaks. He did this with the knowledge and intent
15 that it would be released to the world and he did this knowing that
16 the enemy would retrieve this valuable information from WikiLeaks.
17 Your Honor, for Article 104 purposes, who are the enemies of the
18 United States. You heard evidence from multiple sources, multiple
19 witnesses regarding enemies of the United States and specifically
20 al-Qaeda and al-Qaeda in the Arabian Peninsula. One of those sources
21 of evidence is your ruling on judicial notice. You took judicial
22 notice that facts establishing UBL and Adam Gadahn were members of
23 al-Qaeda and both were enemies of the United States, and that al-

1 Qaeda in the Arabian Peninsula is a foreign terrorist organization
2 and also an enemy of the United States.

3 Your Honor, you also have Prosecution Exhibit 153. That is
4 a Stipulation of Fact for Usama bin Laden. And you have Prosecution
5 Exhibit 182. The Stipulation of Fact for Adam Gadahn. You have
6 those for your reference, Your Honor. Commander Aboul-Enein, through
7 a stipulation of expected testimony, explained the historical
8 background of al-Qaeda and al-Qaeda in the Arabian Peninsula and how
9 they operate, Your Honor, as the enemy of the United States. None of
10 these facts are in dispute. None of these are in dispute. What is
11 contested, but not in dispute, Your Honor, is PFC Manning's
12 knowledge. PFC Manning had actual knowledge that these enemies, al-
13 Qaeda and al-Qaeda in the Arabian Peninsula used WikiLeaks to gather
14 intelligence on the United States. And, therefore, by giving
15 intelligence to WikiLeaks he was giving intelligence to the enemy.
16 Private First Class Manning had the general evil intent necessary to
17 aid the enemy and evidence shows he acted voluntarily and
18 deliberately with his disclosures.

19 The United States proved beyond a reasonable doubt that PFC
20 Manning's voluntary and deliberate actions to disclose over 700,000
21 documents to the world and public through WikiLeaks were in the
22 actual hands of the enemy and PFC Manning knew this would occur when
23 he released that information. The evidence showed that PFC Manning

1 was a trained intelligence analyst. His daily work product, Your
2 Honor, as an intelligence analyst in Garrison and in theater
3 established his knowledge of the enemy threat. His research of
4 intelligence reports related to WikiLeaks warned him repeatedly of
5 the enemy's use of WikiLeaks. And his own statements established
6 that he knew, he knew through his own words the information would be
7 made available to the world without alteration.

8 First, Your Honor, Private First Class Manning's military
9 training. He was an All-Source Intelligence Analyst at 35 Fox. No
10 other MOS in the entire United States Army receive such detail level
11 of instruction on the enemies of the United States, what they're
12 capable of, and why we keep classified information from their
13 possession. Your Honor, what did PFC Manning learn at AIT about the
14 need to safeguard classified and sensitive information? The dangers
15 of putting such information on the internet and the enemy's use of
16 the internet. He learned lessons on INFOSEC, listed in Prosecution
17 Exhibit 52. The PowerPoint slide show training he received. The
18 lessons on the identity of terrorist groups which included al-Qaeda
19 and its leader Usama bin Laden. Lessons on the enemy attempting to
20 discover how and when the US is conducting military operations.
21 Slide 72 of PE 52. 72 of 52. Lessons not to discuss operational
22 activities on the internet or on e-mail and that Soldiers should
23 always assume, always assume, Your Honor, that an adversary is

1 reading posted material on the internet. Lessons that the enemy used
2 the internet. Lessons that focused on the enemy piecing together
3 information on the internet. Piecing it together to use against the
4 United States and that includes, Your Honor, PII, unit
5 identifications, and unit location information. And, finally, Your
6 Honor, lessons focused on ensuring information posted on the internet
7 has no significant value to the adversaries because Soldiers have to
8 always assume, he was taught, always assume that the adversaries are
9 reading their material on the internet.

10 Your Honor, PFC Manning knew and understood the different
11 types of recruiting utilized by terrorist organizations, in
12 particular al-Qaeda. And the number of terrorist web sites have
13 jumped from less than 100 to as many as 4,000 over the past 10 years.
14 He also learned about non-disclosure agreements. In 2008 he signed
15 two of them, two non-disclosure agreements accepting responsibility
16 for having knowledge of the potential effects of unauthorized
17 disclosures of classified information. He declared his understanding
18 of being reposed trust and confidence to protect our nation's
19 secrets. Based on his training and the signing of two non-disclosure
20 agreements, Private First Class Manning had actual knowledge that
21 terrorist organizations would use WikiLeaks as a source for their
22 intelligence collection. When disclosing all the classified
23 information from the SIPRNET, PFC Manning understood the consequences

1 of his actions and knew, without any doubt, Your Honor, that the
2 information he compromised would be in the hands of the enemy.
3 Prosecution Exhibit 25 is a copy of the OPSEC PowerPoint brief he
4 created and taught others. Prosecution Exhibit 25, his own words,
5 Your Honor. And, Your Honor, the fact that Usama bin Laden asked for
6 the disclosed information and received it proves that PFC Manning was
7 correct when he taught in Prosecution Exhibit 25 that adversaries,
8 including foreign governments, terrorists and activists and hackers,
9 that's who they are, that the common OPSEC leaks include leaks on the
10 internet and that disclosure of the information on the internet must
11 be avoided because one must use common sense because there are many
12 enemies and it's a free and open society.

13 Your Honor, that was just, just his knowledge before
14 arriving to 2/10 Mountain; but what about PFC Manning's -- what did
15 he know based on the actual analytic work product that he was
16 required to perform? He had extensive experience studying enemy
17 TTPs, both pre-deployment and during his deployment. At Fort Drum
18 following AIT he conducted weekly briefings to his superiors on
19 worldwide threats and specific threats in Afghanistan and Iraq. He
20 was very good with computers. One of his strengths was data mining.
21 Data mining was critical to the enemy trend analysis, predictive
22 analysis that you've heard about, that study of an enemy trends to be
23 able to predict their future activities. Mr. Hall testifying as an

1 expert, said that PFC Manning would have been aware, he would have
2 been aware that the enemy engaged in similar pattern analysis about
3 the US TTPs and movements. PFC Manning acknowledges his own
4 understanding of the value of the information that he passed to
5 WikiLeaks by claiming the SigActs for Iraq and Afghanistan are,
6 "possibly one of the most --" or excuse me -- "one of the more
7 significant documents of our time. Removing the fog of war and
8 revealing the true nature of 21st century asymmetric warfare."
9 Again, Your Honor, that's Prosecution Exhibit 42.

10 Your Honor, in addition to his training and work product,
11 PFC Manning kept different military publications on an external hard
12 drive that showed he was not naive or an ignorant Soldier but one who
13 methodically kept track of information, including information
14 regarding the use as weapons of pro-insurgent web sites by the enemy.
15 The methodology the enemy uses on the internet to further the anti-US
16 causes, including cyber mining, cyber mining for intelligence.
17 Information warfare in the form of propaganda is a well-known enemy
18 tactic. His possession of all the above data information is
19 additional circumstantial evidence that PFC Manning had actual
20 knowledge leading to the only reasonable inference that he knew that
21 by disclosing this information to WikiLeaks, an organization he knew
22 would release any information he was providing them to the public.
23 He was giving the information to the enemy and specifically al-Qaeda

1 and the al-Qaeda at the Arabian Peninsula. PFC Manning's knowledge
2 of the enemy using the internet was further developed, Your Honor, in
3 his own searching for, repeated reading, and eventual compromising of
4 the classified information pertaining to WikiLeaks website. He read
5 three different intellectual reports on many different occasions
6 during his deployment that explicitly told him that the enemy will
7 read anything posted on WikiLeaks.

8 First, Your Honor, the ACIC report. As I already
9 discussed, PFC Manning first accessed this basic website on 19
10 November 2009, and then viewed the document on, the document being
11 Prosecution Exhibit 45 and 46, on 1 December 2009. So what did PFC
12 Manning learn from that document? That WikiLeaks represented a force
13 protection, counterintelligence, OPSEC/INFOSEC threat. Unauthorized
14 release of classified documents provide foreign intelligence services
15 and terrorist groups potential actual information against the United
16 States. That they post all the information they receive without
17 editorial oversight. That a reader must presume, they must presume
18 foreign adversaries will review and assess any information. PFC
19 Manning also appreciated the value of the ACIC document in its cyber
20 intelligence reporting. On 15 March 2010, PFC Manning sent an e-mail
21 to Captain Lim, Captain Martin and Chief Balonek and others in the S-
22 2 shop stating, "occasionally has good hits from extremist website in
23 our OE founded earlier this morning". And then to provide the ACIC

1 website in his e-mail, http://
2 ACICportal.north/INSCOM.Army.smil.mil/cyber/default. This e-mail is
3 contained on PE 12, PFC Manning's .22 SIPRNET computer. PFC Manning
4 read this document on five occasions and he also compromised this
5 document to WikiLeaks.

6 Second, Your Honor, the NCIS IRR. As I already discussed.
7 PFC Manning first would have viewed this IRR, PE 99, after conducting
8 a search for WikiLeaks on Intelink on 1 December 2009. On 14
9 February 2010, he downloaded the report and disclosed it to
10 WikiLeaks. So what did he learn from this IRR. That WikiLeaks self-
11 describes as an uncensorable Wikipedia for untraceable mass document
12 leaking and analysis. WikiLeaks in 2008 had garnered the attention
13 of major news media outlets but not intelligence reporting within the
14 United States because it was largely north. Interesting enough, Your
15 Honor, the IRR also included contact information for the NCIS cyber
16 security office. If PFC Manning had any questions about the threat
17 WikiLeaks posed to our National Security he could have reached out
18 for clarification which he clearly did not do. However, Your Honor,
19 we do know what he did, he kept Julian Assange's contact information
20 and he reached out to them in November of 2009 instead of seeking
21 clarification if he actually doubted what he read.

22 Third, Your Honor, the C3 trip report. As I already
23 discussed, PFC Manning's first would have viewed the C3 report,

1 Prosecution Exhibit 43, after conducting a search for WikiLeaks on
2 Intelink or after January of 2012. On 14 February 2010, he
3 downloaded the report and disclosed it to WikiLeaks. So what did he
4 learn from the C3 report, Your Honor? On Page 2, "the internet is an
5 essential communication tool for terrorists". That WikiLeaks is a
6 publicly accessible internet website where individuals submit leaked
7 information and have it published to the public anonymously without
8 fear of being held legally liable. Information that can be disclosed
9 includes, but not limited, classified information and then on Page 3,
10 Your Honor, on Page 3 of the C3 report, WikiLeaks poses a large
11 threat not only from the actual external disclosure, but from the
12 insider, the insider would be able to easily leak information without
13 fear of any direct individual repercussions. Private First Class
14 Manning read these three different reports on multiple occasions
15 during his deployment and then he chose to compromise those reports.
16 By reading and disclosing these three documents he knew at a minimum,
17 at a minimum, that WikiLeaks had a well cemented reputation for
18 encouraging leaks of classified information for the United States
19 Government and releasing that information it receives. By reading
20 and disclosing these three documents PFC Manning knew at a minimum
21 that any website that posts everything it received would be used by
22 the enemy. These documents, coupled with his intelligence training
23 on the means and methods that al-Qaeda and al-Qaeda Arabian Peninsula

1 employ, PFC Manning knew the exact type of information he chose to
2 disclose would be useful to the enemy. PFC Manning knew the
3 information's existence on the internet would actively encourage our
4 nation's enemies to gather and data mine the information just like he
5 had to do for his country as an intelligence analyst. This is
6 particularly true, Your Honor, in light of PFC Manning's specific
7 training on al-Qaeda at AIT, 2/10 Mountain, his two JRTC rotations
8 and in-theater. His own words informed his actual knowledge, Your
9 Honor, that his deliberate acts of disclosure to WikiLeaks would
10 inevitably result in our nation's enemy possessing the compromised
11 materials. His own statements document his knowledge that by giving
12 the information to WikiLeaks he was giving it to the enemy. PFC
13 Manning knew the information had a global scope, a global scope and
14 he was creating worldwide anarchy and that was a beautiful and
15 horrifying thing to him. Global scope worldwide anarchy and that was
16 a beautiful and horrifying thing. That's Page 9, Your Honor, of the
17 Lamo chats. These are not the words of a humanist, but rather these
18 are the words of an anarchist. PFC Manning knew how WikiLeaks held
19 themselves out to the world, "like you're the first intelligence
20 agency for the general public". Page 9, Assange chats. On Page 10
21 of the Assange chats, Julian Assange specifically states to PFC
22 Manning that, "WikiLeaks described itself as the first intelligence
23 agency of the people. Better principled and less parochial than any

1 Government intelligence agencies. It is able to be more accurate and
2 relevant. It has no commercial or national interests at heart. It
3 is only interested in the revelation of the truth. Unlike the covert
4 activities at state intelligence agencies, WikiLeaks relies upon the
5 power of overt fact". Your Honor, Private First Class Manning's work
6 with an intelligence agency of the people is not an act of a person
7 trying to spark a national debate but rather an act of a Soldier, a
8 Soldier in the United States Army that is no longer loyalty to his
9 country because he had no, no national interest at heart. PFC
10 Manning depended on WikiLeaks posting whatever he disclosed to them
11 on the internet. Additionally, PFC Manning's chats with Adrian Lamo
12 informed his knowledge of WikiLeaks and the effects of his actions.
13 He called WikiLeaks a group of FOI activists, he knew the compromise
14 of Department of State cables would affect everybody on earth,
15 everybody on earth. He noted, again, Your Honor, that Hillary
16 Clinton and several thousand diplomats around the world are going to
17 have a heart attack when they wake up one morning and find an entire
18 repository of classified foreign policies available and in searchable
19 format to the public. He created the searchable format for the
20 public, the public included the enemy and he knew that, Your Honor,
21 as an intelligence analyst. He even acknowledged that, "could have
22 sold the information to Russia or China and made bank but chose not
23 to because it's public data. And because another state would take

1 advantage of the information, try to get some edge". This isn't
2 public data, Your Honor. This is United States Government classified
3 information he was trained to use to protect our Soldiers and knew
4 the effects of his actions. Your Honor, this simple acknowledgement
5 by PFC Manning shows that he understood the utility and financial
6 value of this information and how foreign entities desired the
7 information.

8 Your Honor, the defense would like you to believe that PFC
9 Manning actually wanted to spark change and reform. However, PFC
10 Manning never once mentioned protecting the American public or the
11 United States as being any sort of motivation for his crimes in any
12 of his chats or e-mails. Simply put, if PFC Manning had given the
13 information to Russia or China, he would have made an incredible
14 amount of money according to him. If nothing else, he was skilled at
15 constructing post-hoc justifications for his actions that were not,
16 Your Honor, not based in facts, or his actual actions themselves, the
17 actions that we're discussing here. This is true for the evidence
18 defense elicited in the McNamara chats and Lamo chats. Based on his
19 actions, Your Honor, admissions to Assange and Lamo, his
20 predeployment admission to Ms. Showman, and his utter disregard for
21 deployed Soldiers in this country, PFC Manning had no allegiance to
22 the United States and the flag it stands for.

1 You heard the testimony from Ms. Showman that during a
2 predeployment counseling session she pointed to the American flag on
3 her shoulder and asked PFC Manning what that flag meant to him. His
4 answer, that flag meant nothing to him. He had no allegiance to any
5 people. Similar words to one who is an anarchist. Ms. Showman
6 testified that after this incident she notified Sergeant Mitchell and
7 then Master Sergeant Adkins. And, Your Honor, you heard, although
8 suffering from memory problems, that Master Sergeant Adkins testified
9 that he remembered signing his administrative reduction board appeal,
10 that document which occurred two years ago, and on that appeal he
11 recalled Ms. Showman telling him about the incident and him reporting
12 that incident to Major Clausen, his boss at the time.

13 PFC Manning did have a general evil intent, Your Honor,
14 which was manifested through his deliberate and repeated compromise
15 of classified information. His wholesale disclosure of information
16 from databases that he could not have even read all the information
17 in. Based on the general evil intent PFC Manning knowingly gave
18 through WikiLeaks al-Qaeda and al-Qaeda in the Arabian Peninsula
19 specific intelligence which was found in their possession. Your
20 Honor, there's no dispute that information from the CIDNE-A database,
21 specifically the SIGACTS, certain Department of State cables and the
22 Apache video are intelligence. And that intelligence was received by
23 al-Qaeda and al-Qaeda in the Arabian Peninsula. As the Court is

1 aware, intelligence means any information which is helpful to the
2 enemy and which is true, at least in part.

3 First, Your Honor, the CIDNE-A SIGACTS -- the SIGACT
4 portion of the CIDNE-A database. Your Honor, according to the
5 Stipulation of Fact for Usama bin Laden on 2 May, United States
6 Government officials raided UBL's compound located in Abbottabad,
7 Pakistan and collected several items of digital media. On that media
8 was first a letter from UBL to a member of al-Qaeda requesting that
9 member gather Department of Defense material posted to WikiLeaks.

10 And then also a letter from the same member of al-Qaeda to UBL
11 attached to which were the SIGACTS from the CIDNE-A database as
12 posted by WikiLeaks. The classified version of this stipulation of
13 fact, Your Honor, Prosecution Exhibit 153 Bravo, 153 Bravo explains
14 exactly what Usama bin Laden asked for and what he exactly received.

15 Second, Your Honor, the Apache video in a video released
16 about al-Assad a media organization operated by al-Qaeda. Adam
17 Gadahn showed the edited version of the Apache video for which PFC
18 Manning disclosed to WikiLeaks. The Stipulation of Fact for Adam
19 Gadahn, Prosecution Exhibit 182, 182 explains the terrorist video in
20 which excerpts of the WikiLeaks Apache video were present.

21 Third, Your Honor, Department of State information.
22 Department of State information was in the hands of two different
23 enemies of the United States: Usama bin Laden and Adam Gadahn.

1 According to the Stipulation of Fact for Usama bin Laden, Prosecution
2 Exhibit 153, during the raid of his compound United States Government
3 officials also collected Department of State information released by
4 PFC Manning. Your Honor, the classified Department of State
5 information found in UBL's possession is in Prosecution Exhibit 173
6 Charlie, 173 Charlie; and this document makes it clear that in the
7 year of its publication, the intelligence community understood
8 certain capabilities of the enemy and PFC Manning himself ignored
9 those indicators when deciding to compromise all the classification.
10 Prosecution Exhibit 173 Charlie. In the same terrorist recruitment
11 video released by al-Assad and Adam Gadahn also showed and discussed
12 Department of State information obtained from PFC Manning and
13 WikiLeaks. Prosecution Exhibit 174 Bravo, 174 Bravo and Charlie
14 described in-depth the Department of State information present in the
15 Gadahn video.

16 Your Honor, in order to be intelligence for article 104
17 purposes the information must be helpful or useful to the enemy. How
18 is this material helpful to the enemy? CIDNE-A, Your Honor, you
19 heard testimony that CIDNE-A contains tactical information about how
20 we fight our wars, defeat our enemies, and how our enemies inflict
21 damage on our Soldiers downrange. This is our playbook, a snapshot
22 of unit TTPs, battle drills and call signs. With this information
23 the enemy now knows how each individual unit, company to division,

1 who deployed to Iraq or Afghanistan between 2004 and 2009 executes
2 its wartime mission. The United States faces enemies worldwide and
3 not just in Iraq and Afghanistan. IEDs are not unique to those
4 theaters. So, now PFC Manning provided every enemy of the United
5 States worldwide this data. The SIGACTS from CIDNE-A details whether
6 the enemy was successful in its attacks against US forces. It is a
7 specific -- If a specific IED for instance, did or did not work. The
8 enemy can now use the factual information from the reports to develop
9 their own TTPs to better employ IEDs against the United States. This
10 is the exact same process, Your Honor, that PFC Manning was trained
11 and used when he determined the safest route or the highest density
12 of IED's for his commander.

13 Your Honor, you heard from Commander Aboul-Enein that
14 acknowledgement of successful attacks against US forces boosts the
15 morale within al-Qaeda and may lead to increase in attacks. This,
16 too, Your Honor, applies worldwide. There is no question why, there
17 is no question why, Your Honor, UBL himself wanted this material
18 based on that type of information and he received it.

19 The Apache video. Your Honor, you heard testimony from
20 Commander Aboul-Enein that media perception is important to al-Qaeda
21 and any event that places al-Qaeda in a positive light or US forces
22 in negative light is beneficial to al-Qaeda. The edited and released
23 version of the Apache video is obviously a video that al-Qaeda can

1 use as propaganda. Terrorist organizations now have it, proven by
2 Adam Gadahn calling on all Jihadists to view the video and wage war
3 against United States. PFC Manning knew this would happen from his
4 AIT training when he taught -- when he was taught, excuse me, Your
5 Honor, that within the last 10 years the number of terrorists web
6 sites have jumped from 100 to as many as 4,000 to aid in recruitment.
7 Now, PFC Manning personally aided in al-Qaeda's recruitment by
8 indirectly giving this video to the enemy.

9 Department of State information. You heard testimony from
10 Commander Aboul-Enein that events that undermine the foreign leaders
11 -- excuse me, cooperation with foreign leaders, Your Honor, would
12 create an environment, an environment which terrorists, ideology
13 excels through al-Qaeda. The Department of State information
14 captures candid discussions with foreign leaders and has a potential
15 to create the type of hostile environment. Even Private First Class
16 Manning himself recognized this in his chat with Adrian Lamo when he
17 stated that line about Hillary Clinton and the several thousand
18 diplomats. This was even obvious to Usama bin Laden, who wanted this
19 material and he received it, and he received it, asked for this type
20 of material and received it, and he was in the most isolated regions
21 within Pakistan, Your Honor.

22 PFC Manning also understood the enemy's ability to data
23 mine for information. As Mr. Hall testified, all junior analysts

1 know that enemy conducts particular analysis based on data it can
2 access and the enemy does this through data mining. PFC Manning knew
3 this when he decided to make the information available to the enemy
4 in the format he made it available. Your Honor, Inspire magazine, a
5 magazine published on the internet by al-Qaeda in the Arabian
6 Peninsula asked for WikiLeaks information. Inspire magazine serves
7 as a propaganda recruitment tool for AQAP and al-Qaeda. On 16
8 January 2011, Inspire magazine published Issue Number 4, its Winter
9 2010, edition issue on the internet. On Pages 44 and 45 of that
10 issue, the magazine lists activities a western Jihadist could do to
11 wage Jihad against the United States and the West. Specifically, the
12 magazine pointed out that archiving large amounts of information is
13 helpful to AQAP and AQ. It further lists, "anything useful from
14 WikiLeaks is useful for archiving." Al-Qaeda in the Arabian
15 Peninsula recognized the value of this information that PFC Manning
16 made available to them through WikiLeaks and directed its followers
17 to perform essentially the same function that PFC Manning did for the
18 United States, data mine for information they could use.

19 Your Honor, the CIDNE-A SIGACTS, Department of State
20 information, and the Apache video are all information that is of
21 value to the enemy and thus intelligence. Private First Class
22 Manning knew who the enemy was and what type of information they
23 sought, specifically classified information and tactical information.

1 He knew that the enemy used the internet and that WikiLeaks was
2 helpful to our enemies. He knew that WikiLeaks website commonly
3 contained classified official US Government information and for that
4 reason was commonly visited by the enemy like any other website like
5 that. PFC Manning was well-informed of how WikiLeaks operated. He
6 searched for WikiLeaks more than 100 times on Intelink during his
7 deployment or, as you heard earlier, roughly four searches for every
8 5 days in theater. He knew that anything that he disclosed to
9 WikiLeaks would be posted on the internet and he knew that foreign
10 adversaries will review and access DoD sensitive or classified
11 information posted to the WikiLeaks website. PFC Manning posed this
12 question, Your Honor, to Adrian Lamo in his chats: "If you had
13 unprecedented access to classified networks 14 hours a day, 7 days a
14 week for 8 plus months what would you do?" PFC Manning asked that
15 question 6 months after he starting exfiltrating information from the
16 SIPRNET. He asked that question 6 months after knowingly providing
17 intelligence leaks about the United States through WikiLeaks. Troves
18 of classified information from SIPRNET databases. He asked this
19 question 6 months after researching WikiLeaks on Intelink and other
20 classified databases and watching the effects of previous disclosures
21 yet continuing to disclose. PFC Manning provided his answer to
22 Adrian Lamo on Page 8, Your Honor, Page 8 of his chat: "Let's just
23 say someone I know intimately well has been penetrating US classified

1 networks, mining data like the ones described, and then transferring
2 that data from the classified networks over the air gap onto a
3 commercial network computer, sorting the data, compressing,
4 encrypting it, and uploading it to a crazy white haired Aussie who
5 can't seem to stay in one country very long." What you did not see,
6 Your Honor, in those chats or the chats with Julian Assange or Lauren
7 McNamara is that he had a duty to his country and a specific duty to
8 protect classified information and other sensitive information and
9 with this access that he work hard to assist his fellow Soldiers that
10 are in enemy sites. Private First Class Manning never took pause
11 when divulging to Adrian Lamo that he had created a massive mess and
12 no one, his own words, Your Honor, no one had a clue because 95
13 percent of the efforts are on physical security of classified
14 networks and managing operational security on unclassified networks.
15 That's on Page 8 of his charts, Your Honor, Lamo chats, Page 8. PFC
16 Manning was an anarchist whose agenda was made abundantly clear
17 almost immediately after he deployed to Iraq. He was not naive.
18 Each time he downloaded and transmitted closely-held information he
19 made deliberate decisions to break ranks with his nation throwing all
20 his training and experience aside and releasing that information to
21 the world. He used his access to classified networks that Julian
22 Assange claimed held the alleged covert activities of state
23 Intelligence agencies and made those secrets overt fact for the world

1 to view, all the while knowing the world included progressive and
2 technologically savvy enemies that used any US Government information
3 against our nation. Your Honor, in the Assange chats, Page 5, Page
4 5, PFC Manning boasts on his knowledge that, "the more the Government
5 controls information, the harder the Government tries, the more
6 violently the information wants to get out." Your Honor, the
7 information did not just ooze from the SIPRNET onto the World Wide
8 Web for the enemy to access, but was the precise outcome that PFC
9 Manning desired when he took the deliberate steps to disclose over
10 700,000 documents by moving that information one disk at a time from
11 SIPRNET to his personal Mac bridging that air gap.

12 Your Honor, rather than focusing on his war fighting
13 mission, he made the decision to disclose the 700,000 from SIPRNET
14 knowing that once WikiLeaks received the information they would
15 release it for the world to access and he knew, he knew the world
16 also included the enemies of the United States. He was not a naive
17 or well intentioned Soldier. Your Honor, a well-intentioned Soldier
18 does not claim that: "The State Department fucked itself. Placed
19 volumes and volumes of information in a single spot with no
20 security." Lamo chats, Your Honor, Page 41. Or, have a conversation
21 recognizing that the only people you trust can fuck you, info-wise at
22 least. Lamo chats, Your Honor, Page 41. This recognition of system
23 weaknesses and the active and deliberate exploitation of those

1 weaknesses are not the acts of the naive and well-intentioned
2 Soldier, but one who acts in a calculated manner and for his own
3 purposes. The only naivety PFC Manning showed, Your Honor,
4 throughout his entire endeavor was that despite admitting to his
5 crimes in multiple chats, making admissions over e-mails, keeping
6 trophies of his handy work and not forensically wiping his machine
7 daily, he actually thought he would get away with what he did and he
8 wouldn't get caught.

9 Private First Class Manning is a United States Army
10 Intelligence Analyst that the United States trained and trusted to
11 use multiple intelligence systems to provide real time information to
12 leaders on the battlefield and he used that training to defy our
13 trust and indiscriminately and systematically harvested over 700,000
14 documents from the SIPRNET during a time of war and while deployed in
15 Iraq in support of that war. Showing no loyalty to this nation, PFC
16 Manning knowingly gave the enemies of the United States unfettered
17 access to these Government documents and we now know today, Your
18 Honor, as part of this court-martial that at least two enemies, at
19 least two enemies received the information; including Usama bin
20 Laden, who at the time of his death was the most isolated and
21 wanted enemy of the United States, and al-Qaeda in the Arabian
22 Peninsula.

1 Your Honor, the United States is confident that after
2 reviewing all of the evidence, applying your own common sense
3 knowledge of human nature and the ways of the world and specifically
4 spending time focused on PFC Manning's own words in his chats that
5 you will find him guilty beyond a reasonable doubt of all the charges
6 and their specifications. Your Honor, PFC Manning was not a
7 humanist; he was a hacker. A hacker who described his fellow
8 Soldiers as dykes, a bunch of hyper-masculine, trigger-happy,
9 ignorant, rednecks or gullible idiots. Lamo chats, Your Honor, Page
10 7 and 37, 7 and 37. Assange chats, Page 8. Your Honor, he was not a
11 troubled young soul. He was a determined Soldier with the knowledge,
12 ability, and desire to harm the United States in its war effort.
13 And, Your Honor, he was not a whistleblower; he was a traitor. A
14 traitor who understood the value of compromised information in the
15 hands of the enemy and took deliberate steps to ensure they, along
16 with the world, received all of it. Thank you, Your Honor.

17 MJ: All right. Is there anything we need to address before we
18 recess until 0930 tomorrow?

19 CDC[MR. COOMBS]: No, Your Honor.

20 TC[MAJ FEIN]: No, ma'am.

21 MJ: Court is in recess.

22 [The court-martial recessed at 1744, 25 July 2013.]

23 [END OF PAGE]

1 [The court-martial was called to order at 0932, 26 July 2013.]

2 MJ: Court is called to order. Major Fein, please account for
3 the parties.

4 TC[MAJ FEIN]: Your Honor, all parties when the Court last
5 recessed are again present. Your Honor, at 0920 this morning there
6 are 29 members of the media at the media operation center, one
7 stenographer; there's eight members of the media in the courtroom, 36
8 spectators in the courtroom; and 13 spectators in the overflow
9 trailer. If the overflow trailer does become at maximum capacity the
10 alternate site is available. Also, Your Honor, there have been two
11 new appellate exhibits marked; Appellate Exhibit 618 is the Defense's
12 PowerPoint for their closing, it's a paper copy. And Appellate
13 Exhibit 619 is the Prosecution's copy of the PowerPoint and that's on
14 a CD.

15 MJ: You mean the PowerPoint the prosecution used yesterday?

16 TC[MAJ FEIN]: Yes, ma'am, the closing argument.

17 MJ: Okay. Is there anything else we need to address before we
18 proceed to the Defense's closing argument?

19 TC[MAJ FEIN]: No, ma'am.

20 CDC[MR. COOMBS]: No, Your Honor.

21 MJ: Mr. Coombs?

22 CDC[MR. COOMBS]: Your Honor, before I really begin my closing
23 argument I want to address a couple of the statements that the

1 Government highlighted. And I think what they chose to highlight was
2 always just a snippet; it wasn't the entire statement. Almost, if
3 you would, using a rule of completeness, I just want to take a look
4 at a couple statements. So, they start off with this and they
5 actually used this a few times, both in their opening and their
6 closing, making it seem as if PFC Manning is saying, well, if you
7 have all this access, what would you do with that? Would you, you
8 know, give all this stuff to people, kind of a nefarious goal in mind
9 is what they are trying to say. But then when you actually look at,
10 and this is a little bit later within PE 30, and the Defense would
11 ask you to read all of PE 30, because I'm sure the Government is
12 going to cherry pick some more when they do the rebuttal argument and
13 take statements out of context. But he talks about the same thing
14 here and then when you read the rest of it, you see what he's
15 concerned about, seeing incredible things, awful things, things that
16 belong in the public domain and not in some server stored in a dark
17 room. What would you do then? That is a whistleblower. That is
18 somebody who wants to inform the American public. Then this is kind
19 of a longer section and snippet. Again, it's going to be important
20 that you read all of PE 30. But there are a few things that the
21 Government brought out though here. And we'll talk about first the
22 idea of when he was working for WikiLeaks. The Government really
23 zeroes in on this of saying like he's working for WikiLeaks. He's

1 never working for WikiLeaks and we'll talk about that to show why
2 that is just not supported by the evidence. But they zero in on this
3 right after the Thanksgiving timeframe. And the Court is well aware
4 of the evidence and how it laid out and when he gave certain things.
5 The Thanksgiving timeframe is important because that's when the 9/11
6 pager messages were released. And that is when he first became aware
7 of WikiLeaks. And that's supported again by the evidence, something
8 the Government wants to ignore. But the evidence of when he starts
9 to do his WikiLeaks searches. He doesn't really start until 1
10 December. And yet they are trying to suggest that he went to work
11 for WikiLeaks in November of 2009.

12 Then the second part, I don't know about anyone else, but
13 when you heard the heart attack comment about 15 times from the
14 Government yesterday, it was always taken out of context. It was
15 always put with a nefarious purpose behind it. He talks about the
16 fact that they are going to -- the Department of State is going to
17 have a heart attack, in particular Hillary Clinton, when she sees
18 this is available and then you got to look at the rest of the
19 statement. And the rest of that statement talks about why they would
20 have a heart attack. The fact that these diplomatic cables provide
21 evidence of how we exploit the third world, how we're doing things
22 that, if most American people knew, probably would not be proud of
23 their Department of State to be doing that and wouldn't want the

1 Department of State to be doing that. Then they talk about, he
2 wanted to be an anarchist and this is where they get that. That's
3 their whole argument for he wants to be an anarchist, an activist.
4 That's where they get that. Again, taken out of context. When you
5 take a look down here, this is important when they talk about him
6 wanting to essentially get attention. He's not seeking attention.
7 He's saying he's willing to accept the price for what he's doing, but
8 he's not seeking attention. Again, take a look at all the comments
9 and read them in their context, not how the Government has
10 selectively pulled out certain statements.

11 Then the other day they talked about Brad making this
12 comment, "The State Department fucked itself by placing volumes and
13 volumes of information in a single spot with no security." Well, I
14 mean, that is actually a pretty accurate assessment of what the State
15 Department did. Because we know from Mr. Wisecarver, the State
16 Department never did anything to provide any security over the Net-
17 Centric Diplomacy Database. There's no restrictions whatsoever.
18 Again, I'll go in greater detail on that when I talk about the 1030
19 offense. But the second statement that they attributed to PFC
20 Manning was not made by PFC Manning. So, again, it's important, when
21 the Government makes its representations, for the Court to actually
22 read the section. And really PE 30 and also PE 123, the Lamo chats -
23 - excuse me, the chats allegedly with Julian Assange, it would be

1 important to read all of that and not take the Government's word for
2 when they cherry picked certain comments out.

3 Now for a timeline. The Court asked for a certain timeline
4 and this is the Defense's position on the timeline of when certain
5 things happened. I want to explain this for a moment. Everything
6 that's in yellow is items that were published after PFC Manning's
7 arrest. Or with regards to Number 6, Your Honor, that is something
8 that was published and he didn't disclose anything after that date.
9 So everything in yellow is something that was either published after
10 his arrest or was published, and he hadn't disclosed anything after
11 that date. Everything in green is something that was published and
12 he then released something after that. And so when you look at that

13 ----

14 MJ: Okay, can I stop you for just a minute? I'm not sure I
15 understand that comment. I understand it was published after his
16 arrest. And then the second part of that statement is?

17 CDC[MR. COOMBS]: The 24 April, ma'am, this he was not
18 arrested yet. So this was published before his arrest but he didn't
19 disclose anything else after that date. Does that make sense?

20 MJ: He wasn't arrested before 24 April 2011?

21 CDC[MR. COOMBS]: I'm sorry. That should be '10. That was a
22 bad date on my part.

23 MJ: Okay.

1 CDC[MR. COOMBS]: So the green items are the items that, and
2 in fact, I'll have to double-check that, that should be '10, but the
3 green items are the items that were actually disclosed during the
4 time that he was in Iraq. So you have the Reykjavik cable. You have
5 the ACIC report. You have one of the OGA documents, even though he
6 disclosed them both on the same date. The other one is in August of
7 2010. And then you have the Iraq video. So that's the world that
8 Manning was aware of for WikiLeaks disclosing the information prior
9 to his arrest. And the Government also talked about PE 40 for
10 Identification. The photograph that they highlighted several times.
11 What we would ask the Court to do, and I'll hand the Court PE 40, we
12 would ask the Court to look at PE 40 and look at that photograph.
13 And the Government's -- it's hard to follow their argument but I
14 think their argument is, because he's deployed and he comes back and
15 takes the photograph of himself that that -- he cannot be somebody
16 who is concerned about what he's seeing, can't be a whistleblower,
17 can't be somebody who is trying to disclose stuff to the American
18 public. That's the best I can follow their argument. But if you
19 look at that photograph, you see he's wearing makeup. Take a look at
20 the photograph. And when you look at the photograph, you see the
21 fact that he has a bra on. And the resolution is not the greatest,
22 but what you see there is a young man who is cross dressing. What
23 you see there is somebody smiling, maybe, and just maybe that person

1 is smiling because he's able to be himself at that moment. Just
2 maybe.

3 You know, the Government gave a lot of, kind of a diatribe
4 is basically is what they gave yesterday. A lot of it was not based
5 in fact, ma'am. And you know, the truth is something that you can
6 look at somebody in the eye and you can just tell, you don't need to
7 read it for 8 hours. The truth is something that you know and for
8 you, you're in a position now of seeing who is telling the truth.
9 Because most of the time in a case you have got facts and there are
10 two different ways of viewing those facts. And the parties being the
11 parties they are argue those two sides. And they claim there are two
12 sides to the story. In this case, when you hear what the Government
13 said of a traitor, of somebody who had no loyalty to the country, and
14 what you're going to hear from the Defense of a young man who was
15 young, naive and good intentioned, one of us is not telling you the
16 truth. There's no way to look these facts and to see what Major Fein
17 said yesterday. There is no way to look at the facts and see that.
18 And when you think about the truth, oftentimes we have to rely upon
19 how we know somebody to tell them the truth. You look at somebody
20 and you say, you know what, I know, you know, Tom Hurley very well,
21 Major Hurley, I know him well. When he tells me something, I know
22 that's the truth. You're in a position though of gauging PFC
23 Manning and his intentions based upon this evidence. You don't know

1 PFC Manning. So I understand why the Court would say well, you know,
2 I can't rely upon what I normally would consider when looking at the
3 truth. And in those circumstances, when you don't know somebody
4 well, what do you do to find out what really is the truth? What is
5 the ground truth? Well, a good indicator of that is looking to see
6 how that person acts or behaves at a time in which they don't think
7 anyone is watching. What that person says at a time which they think
8 nobody is ever going to see the words they have said or wrote down.
9 That is when you can gauge the truth. Let's take a look at that
10 truth.

11 Defense Exhibit Romeo. That's the chat between PFC Manning
12 and Ms. McNamara. Read all of Defense Exhibit Romeo. And you will
13 see the truth, something that the Government doesn't want to admit is
14 true. And it's an inconvenient truth to borrow the phrase from a
15 former Vice President or the Government. It is an inconvenient
16 truth. Because it's inconvenient, now it doesn't support the idea of
17 a 104 offense. Now it doesn't support the idea of a traitor of
18 somebody who is a hacker. Because what is PFC Manning? He's
19 somebody that in the months leading up to deployment was trying to
20 apply his knowledge to hopefully save lives. Hopefully tell his
21 commanders what he's learned and do a very good job to save lives.
22 He's concerned about everybody. What else does he tell her? He
23 says, I feel a great responsibility and duty to people. It's

1 strange, I know. He places value on people first. The words of PFC
2 Manning at a time which nobody could question what he is saying is
3 true. He has no reason to lie to Ms. McNamara. These are his words.
4 He talks about the fact that he's got foreign affairs on his mind
5 constantly. That's one of the bad parts of his job. He has to think
6 about bad stuff. And then, kind of showing his age and also kind of
7 showing a realization of how the world is, that it isn't black and
8 white, that there are shades of dirty gray. You don't know always
9 know what is the right thing. And the Government talked about all
10 the times that PFC Manning went back and checked for WikiLeaks, the
11 few times, or looked on the story for the Apache video to see how it
12 was being received. And he did that with an idea of, oh, he's
13 seeking fame, notoriety. I'll talk about how that doesn't hold
14 water, that idea. But here's another common sense reason why
15 somebody might do that. You might want to see if what you are doing
16 is worth the risk that you are putting yourself at. How is this
17 being received? Is it making a difference what I'm doing? The
18 Apache video goes out. How does the American public respond? And he
19 said in the Lamo chat he was encouraged by that response. They
20 immediately saw what he saw. That's a pretty good common sense
21 explanation for why he would check on this stuff.

22 Why would he tell his Aunt to post a link to this? Well,
23 he's arrested at this point. People don't know what's going on with

1 him and again, this shows why he's doing what he's doing. I want the
2 American public to know this. That is not somebody seeking fame and
3 notoriety.

4 Now let's take a look at Adrian Lamo again. Another very
5 good indication of the true nature of PFC Manning. He is now in an
6 IM chat with Adrian Lamo. It's prior to his arrest. He has -- At
7 this point no knowledge that he's ever going to be discovered or be
8 arrested or anything. In fact, he doesn't think that's going to be
9 the case. He's concerned just in general that he's made a mess, but
10 he's not at that point under a belief that it's any day now I'm going
11 to be arrested. He's talking to Adrian Lamo and when you look at
12 the chats and you see he's reaching out to him for moral support.
13 He's reaching out to him because of their common background, the fact
14 that Adrian Lamo is very active in the lay -- excuse me, in the gay
15 and lesbian and bisexual or transsexual community. He's reaching out
16 to him to talk to him. And based upon the conversation Adrian Lamo
17 testified, Government's own witness, testified that he thought PFC
18 Manning was young, idealistic and well intentioned. And then when
19 you look through the chats, and I could pull each of the exact
20 quotes, but I ask, again, the Court to read from front to back PE 30.
21 And you'll see this is what -- and Adrian Lamo testified to this
22 fact, this is what PFC Manning was concerned about. He wanted the
23 information, he believed that it would have impact on entire world.

1 And the Government says, the entire world, that includes the enemy.

2 Well, you know, his focus was on getting this information out to the

3 world, for them to digest it, for them to see what was going on and

4 hopefully make a difference. He was hoping that, if people knew the

5 true casualty figures in Iraq, that people would be alarmed by that.

6 He was hoping that, if people read the diplomatic cables, he [sic]

7 would be alarmed by what we are saying about other countries, how we

8 are not always doing the right thing. With the way you would hope

9 that America would act. We don't act that way. We act with our

10 self-interest in mind. And oftentimes that's to the exploitation of

11 a Third World Country. He testified that PFC Manning thought it was

12 important information got out. And again, this is going back to the

13 Lauren McNamara chats. His feeling of being connected to other

14 people, of everybody, a feeling like we are all a distant family,

15 that we have a duty to each other as humans. And that feeling, even

16 though it's a little naive in that you would have a duty to your

17 fellow human being, what a great feeling to have at his age. What a

18 great thing for a young man to feel a duty to everybody regardless of

19 who they are. That is something that is not anti-patriotic. That is

20 something not anti-American. That really is what America is about,

21 that we take everybody. That's the promise of the Statue of Liberty.

22 Of everybody. Give me your tired, your homeless, your poor.

23 Everybody. We care about them. This country was founded on those

1 principles. And he talks about the fact that he wanted to make sure
2 everyone was okay. And you can see that in the chats of he actually
3 separated himself from other analysts because he did follow what
4 happened to certain people and he wanted to make sure that they were
5 okay. When you think about that kind of responsibility that he's
6 placing upon himself, again this goes to the young nature of it.
7 It's understandable because this is his first deployment. This is
8 his first time as an analyst seeing this stuff. We had testimony
9 from Captain Lim that the garrison environment was much different
10 than the deployed environment, when it came to what you did as an
11 analyst. The garrison environment you are rarely on SIPRNET. And
12 the deployed environment you were always on SIPRNET, and think about
13 the stuff that he was seeing and reading on daily basis.

14 He did talk about his humanist values with Adrian Lamo, he
15 talked about the way custom ID tags. And he talked about the fact
16 that he was troubled. He was troubled that no one seemed to care.
17 Something that the Government again tried to gloss over and say he
18 wasn't a humanist. But unfortunately for them the evidence doesn't
19 support the diatribe that they did yesterday. The evidence supports
20 the fact that this young man, who is a humanist, who did care about
21 other people, did care what happened to people. And what was his
22 motive? He talked about that with Adrian Lamo. He was hoping to
23 spark worldwide discussion, debates and reforms. He wanted people to

1 see the truth. He wanted to see the truth because he was hoping that
2 things would change based upon that information. Nowhere does he
3 discuss wanting to give information to the enemy. Nowhere does he
4 discuss, I know the enemy is going to get this. He's solely
5 concentrated on making a difference, changing the way the world
6 operates. Again, young and naive but good intentioned.

7 Let's look at some of the significant events that happened
8 for him. We know that there's Christmas Eve EFP, and that's Defense
9 Exhibit Echo. And Chief Ehresman talked about the fact that was a
10 topic of discussion the following day. We know about the arrest of
11 15 Iraqis for printing what was at the time considered anti-Iraqi
12 literature, but was really just a scholarly critique of where did the
13 money go. And when you take a look at what Sergeant Sadtler said,
14 PFC Manning came to him with that information and he was troubled by
15 it. He was troubled that no one cared. Nobody cared about the fact
16 that perhaps innocent people were being arrested. Look at PE 123.
17 This is the chats between PFC Manning and Press Association. If you
18 look at the first couple of pages of that, you will see where PFC
19 Manning talks about this. He gave them information. And he even
20 says, hey, look, you know, look to this, use this hotel because it
21 looks like, you know, some of this information came from a fellow
22 journalist for you to publish this. And what do you see in those
23 chats? Press Association is saying, we need further confirmation in

1 order to go with this story. And we'll again talk about how that
2 shows that they are a journalistic organization. That's a big event
3 for him. The Apache video and Farah video are talked about in PE 30,
4 the Lamo chats, and he talks about how that impacted him and what he
5 saw. And how he's troubled by that. But the day-to-day activities.
6 And this is important because, when you think about just for a
7 moment, you go from being a 20 now 21 year old, at the time of his
8 deployment, and never been deployed, first duty station, you go from
9 being a 21 year old and always looking at things from the standpoint
10 of like JRTC of hypotheticals, of pretend, the people who die at JRTC
11 is all pretend. Those are not real people. The models and the
12 things that happen there are all pretend. And you go from pretend to
13 the deployed environment. And in the deployed environment you start
14 reading these things. And there's has to be, and we train this in
15 Soldiers, there has to be kind of a time in your mind where you
16 separate yourself. And the only way you can do your job is to
17 basically read this, being disengaged, the loss of life that you are
18 seeing there doesn't really matter. That's how you do your job. And
19 what's clear is, PFC Manning from the Lamo chats forward you can see
20 what's clear, as he's being exposed to this information, he's being
21 troubled by what he's seeing. And when he says the SIGACTs represent
22 the most significant information, he's talking about the loss of life
23 in Iraq. And he talks about that in the Lamo chats. And what is

1 clear is, at some point there is a change to where you can no longer
2 just ignore the fact that these are real lives being lost. These are
3 real people dying. You looked at the Apache video from the
4 standpoint of a Judge looking at it to say, I want to see if the
5 Finkel books quotes what is in this video. That's how you looked at
6 it. And we gave you a transcript of the video for you to look at
7 that. I have three clips. I now want you to look at this and think,
8 how would a young 21 year old look at this same thing, when they are
9 thinking about loss of human life.

10 [The civilian defense counsel played a video while talking the Court
11 through it.]

12 CDC[MR. COOMBS]: Look very close here and you can clearly see
13 this is a camera. The guy is down. Is being shot. He's clearly
14 wounded. We are going to shoot him some more. They are firing into
15 a cloud of dust. You see there, they switched real quick, look where
16 his ammunition lands. They laugh about that. Where he was aiming
17 and where it actually lands. Targets. That's how you talk about
18 people in order to not be concerned that you are just killing people.
19 Shooting some more. Just shooting. People on the ground.

20 [The video ended.]

21 CDC[MR. COOMBS]: All right. So you see there a group of
22 people and certainly you could view that from the standpoint of the
23 Apache crew engaging an enemy. You certainly could. But you also

1 can view that from the standpoint of a young person looking at eight
2 people in a group, and what we now know to be the truth, the truth is
3 two reporters there. And just standing in a group on a street
4 corner. And you get shot like fish in a barrel. You just keep
5 shooting and keep shooting. And if you thought for a moment, okay,
6 it's just them engaging the enemy. Then when you go into the second.
7 [The civilian defense counsel played a second video while talking the
8 Court through it.]

9 CDC[MR. COOMBS]: Ask if he's got a weapon. Guy crawling on
10 the ground and you are watching that. This is a real person. The
11 time this was happening this is a real person on a sidewalk. Come
12 on, buddy, all you got to do is pick up a weapon. He picks up
13 something and they are going to kill him. You have got units coming
14 that way. They are close, they are right below the helicopter. He's
15 going to pop flares to indicate where they need to go. So we know we
16 have got ground troops on the way there. Okay. So those are facts.
17 Now a van pulls up. People picking up bodies and weapons. Where are
18 the weapons? No weapons. Asking if he can shoot. Picking up
19 bodies? And oh, picking up a wounded person. You've got a van. We
20 now know there's children here. But even so when you look at this
21 you have got two people unarmed trying to take a wounded man into a
22 van. The Apache crew is begging, come on, let us shoot, they are
23 taking him. Again, we know ground troops are on their way. Look at

1 the guy on the ground. They fire some rounds into him. He's laying
2 down. They fire several rounds into the van. Just constantly firing
3 into the van. The latter part of that video they congratulate
4 themselves on a good shoot.

5 [The video ended.]

6 CDC[MR. COOMBS]: When they ultimately find out, as you see
7 when you watch the video, when they find out the children are in that
8 van, what they say is, well, well it's their fault for bringing
9 children on the battlefield. Some people might view that as the
10 battlefield. Those people viewed that as their home, as their
11 street, as their homes and houses where they lived. That's what they
12 viewed that, not the battlefield. Again, you have to look at this
13 through the eyes of a young man who cares about human life. When you
14 hear the banter of the helicopter crew, as somebody who spent a great
15 deal of time in the military, and has been deployed several times,
16 thankfully never engaged in any combat, I understand that. I do
17 understand that. I understand ----

18 MJ: All right. Mr. Coombs ----

19 CDC[MR. COOMBS]: I think it's a fair comment on the
20 inference, Your Honor.

21 MJ: What you understand is not relevant. Move on, please.

22 CDC[MR. COOMBS]: Well, the Court should understand that the
23 banter that is in here is the crew talking about how they are

1 engaging targets, not human life. What the Court should understand
2 when you look at that is, it is the crew disengaged from what they
3 are doing. And common sense will tell you, disengage from a
4 difficult thing so you can go to bed at night and sleep. But what
5 you do when you can't disengage. What do you do when these images
6 are burned into your mind?

7 Now let's take a look at the third video.

8 [The civilian defense counsel played a third video while talking the
9 Court through it.]

10 CDC[MR. COOMBS]: They are firing missiles into a building.
11 We are going to see an innocent bystander just walking, no weapons,
12 no nothing. Who was that person? What was that person's goals and
13 hopes in life? They see that. Do they talk about collateral damage?
14 No. They are going to engage the building again.

15 [The video ended.]

16 CDC[MR. COOMBS]: So when the Court looks at this, the Defense
17 requests that you not disengage, that you not look at this from the
18 eyes of, you know, this just happened on a battlefield. These are
19 real lives. And we just saw, collectively, at least nine lives,
20 probably more, because the building, we saw people go into that
21 building when you watched the video, extinguished. Did they all
22 deserve to die? That is what when PFC Manning is watching this video
23 he is seeing and he's questioning. Even in the SCIF they talked

1 about this video among the S-2. They talked about the video and what
2 they saw.

3 Now before I talk about what I believe the evidence showed,
4 I want to spend some time on the Government's version and their
5 story. So the Government in their story that they want you to
6 believe, and really their story has the logic of a child, when you
7 listen to the facts and you compare the facts with the conclusions
8 that they try to draw. There's no sophistication there. It is just
9 taking facts and running with them to a conclusion that's not
10 supported. Something you would expect of a child. And so you see he
11 deploys in November 2009. According to the Government within 2
12 weeks, 2 weeks, he starts working for WikiLeaks. That's their
13 theory. He deploys. Two weeks on the ground. Working for
14 WikiLeaks. Do they give you a motive? What would cause this young
15 man, who in the chats with Lauren McNamara is talking about, I want
16 to do everything I can to help my commanders, make sure everyone gets
17 home safely. What would cause this young man to go from that and in
18 2 weeks' time become an employee of WikiLeaks. The Government will
19 gloss over that. They've got a little bit of evidence, and I'll talk
20 about why none of that evidence holds up to any sort of inspection.
21 That's their story. That's the version, that's what they want to run
22 with. And why do they want to run with that story? Well, because it
23 is central to how they portray PFC Manning. And the evidence that

1 they highlight in order to kind of bolster their story is the 2009
2 WikiLeaks Most Wanted List, the evidence from Jason Katz's computer,
3 PE 30, the Adrian Lamo chat, the evidence regarding the Tweet on the
4 .mil addresses and the evidence on the USFI GAL, which is really the
5 Division GAL. The fact that PFC Manning wiped his computer in
6 January of 2010. And the allegations of then Specialist Showman, now
7 Ms. Showman. This is what they relied upon. So let's talk about
8 each one of these real fast.

9 First, the 2009 Most Wanted List. The Government tried to
10 make this list seem like an evil thing. The way they did that was
11 they gave you the sort version, which just listed all the countries
12 and the information or documents that WikiLeaks said they wanted.
13 And they said this was the Most Wanted List of WikiLeaks and this was
14 PFC Manning's guiding light for when he hit the ground in Iraq.
15 That's their story. Well, the Court then realized that the
16 Government, as usual, was not telling you the entire story. And what
17 they left out was, there was a non-short version. And in that non-
18 short version it listed really what this whole list was about. It
19 was WikiLeaks saying, look, tell us, humanitarians, activists, NGOs,
20 fellow reporters, what do you want to know in your country? What in
21 your country is being hidden from the public that you believe the
22 public should know? Give us a list. We are going to compile that
23 list and we are going to work to obtain that list. What does this

1 sound like? Any journalistic organization that has like a hot line
2 or a anything else that says, call us. You got a story, call us.
3 We'll investigate. Channel 12 News Investigates. You tell us about
4 something bad. We are going to find out. Bad landlord, whatever.
5 That's what this list is about. But the Government doesn't want to
6 highlight that because, well jeez, that doesn't make the list seem so
7 evil anymore. And then, when they say this is a guiding light, we'll
8 talk about this in a moment, it's important to look at the fact that
9 of the 78 things listed on the United States, the Government could
10 only remotely tie him to four of the things on the list. When I say
11 remotely, it's a stretch. They wanted CIA interrogation videos.
12 Wow, he searched for interrogation GTMO. That's the same thing
13 nothing was verbatim. And yet this is his guiding light for 78
14 things. And then of course the Government ignores the fact that
15 there's a lot of other countries on that list. It's the same four
16 for the several hundred other things on that list for the other
17 countries. And PFC Manning had access to a lot of information.
18 Certainly on the other countries. And had he wanted to, and this was
19 his list, you would see a lot of searches on Intelink that match up
20 verbatim or very closely to the items requested on that list. But
21 you don't see that. So now the first little bit of evidence, the
22 2009 Most Wanted List, no longer looks like such a good piece of
23 evidence.

1 Jason Katz's computer. Now the Government yesterday talked
2 about a very convoluted way of saying that PFC Manning must have
3 provided the video to Jason Katz. I'm going to in the next few
4 slides try to give you a very straightforward common sense way of
5 looking at the evidence that doesn't involve the leaps of logic that
6 the Government is asking you to make. First of all, what we know as
7 fact. There is absolutely no tie between PFC Manning and Jason Katz
8 forensically. Absolutely no tie whatsoever. And they got PFC
9 Manning's computer and they have Jason Katz's computer. And no tie
10 whatsoever. Jason Katz has the Farah video on his computer. We know
11 that its saved on his computer on 15 December 2009. That's a fact.
12 We know, and it's an unfortunate fact for my client, because it would
13 prove that he's innocent definitively, but we know there's forensics
14 from 1 December 2009 forward. That's what we could show for the
15 CENTCOM Farah video. Shaver talked about that that 1 December
16 forward that's the only thing we can show when things were accessed.
17 For whatever reason we can't show anything earlier than 1 December.
18 What we can show is that PFC Manning never accessed the CENTCOM Farah
19 videos that were, you know, on the CENTCOM server. So we know that
20 as a fact. So the Government then extrapolates from that, that
21 because Jason Katz had it on his computer on 15 December, and we can
22 show all the forensics from 1 December forward, that PFC Manning
23 never went there, that PFC Manning must have given this in November.

1 And thus, is born their grand conspiracy that within 2 weeks he goes
2 to work for WikiLeaks. That's -- At some point, sitting down over
3 this, they must have done the "aha moment," we can't prove it but
4 this sound like a good story. Let's run with that. So then, we look
5 to some of the other ways that maybe we could prove that what they
6 are saying really isn't true. And we got the Centaur logs, Your
7 Honor will remember that that kind of covers the net flow from, you
8 know, basically they can show from CENTCOM to PFC Manning's computer.
9 And Agent Shaver said at no time in the November timeframe did they
10 have Centaur Logs to show the amount of information that would be
11 needed to encompass a video being transferred from CENTCOM to PFC
12 Manning. But, unfortunately, or fortunately for the Government's
13 theory, on 30 November we don't have Centaur Logs. We can't show
14 anything on that day. We don't know why we don't have them. We just
15 don't have them. And so, now the Government's theory is even more
16 refined. It's not just before 1 December, PFC Manning must have
17 given it to Jason Katz on 30 November. That had to be the day.
18 Absolutely, positively had to be the day forensically. And what did
19 they have on 30 November? Well, we have on 30 November he searched
20 Intelink logs for CENTCOM. We can't show anything forward from that
21 because once you leave basically that initial search we can't show
22 where you went. Okay. So this is what the Government can show. And
23 what the Government wants you to believe then is, based upon this,

1 then they want to take you on their little journey of, again, the
2 child's logic of, he searched for CENTCOM so he must have eventually
3 came across the SJA folder. And if he came across the SJA folder,
4 and he would have searched through the SJA folder and eventually come
5 across the stuff dealing with Farah and he did that. And that's how
6 he got the video. That is how he did it. They didn't offer any
7 evidence of how much was on the CENTCOM folders. They didn't offer
8 any evidence of how much was in the SJA folder. Why not? Well,
9 again common sense would be, because that would almost probably be
10 like looking for a needle in a haystack. But they don't want to
11 highlight that. They want you to run right past this logical speed
12 bump and just go with them, just follow us on our logic. And so
13 let's do that. Let's go along with the Government and its logic.

14 PFC Manning hits the ground in Iraq in mid-November. For
15 whatever reason his motive, I'm now going to use the 2009 Most Wanted
16 List as my guiding light. And I'm going to give something to
17 WikiLeaks. I'm going to do it because I'm now a traitor. I'm now a
18 activist. So what is the first thing I'm going to choose? What is
19 the very first thing I'm going to give to WikiLeaks and say look,
20 WikiLeaks, I'm for you. Well, I'm going to give you an encrypted
21 video that I can't see, you can't see because guess what, we don't
22 have a password for it. Oh, by the way, you never asked for it.
23 That's not on your 2009 Most Wanted List. This is kind of like

1 someone showing up to a wedding and giving you something that's not
2 on, you know, the list that you registered for. You didn't want it.
3 What do you think PFC Manning is doing at this point? According to
4 the Government he is like, hey, you know what, I can look at all
5 these 78 things that you want, but I don't want to give you that
6 stuff. You know, you wanted the General Order Number 1, a very easy
7 thing for me to get to you, but I don't want to give you that. I
8 want to give you an encrypted video that I can't see. I can't see it
9 but I want to give it to you. So that's the thing he chooses to
10 give. Then he waits 5 months to send any of the supporting
11 documentation that's right there with the encrypted video. And why
12 is the Government stuck with that story? Well, unfortunately for
13 them forensics show that he pulled all the supporting documents in
14 April of 2010. That's a lot later than the November 2009 timeframe
15 that we want everyone to believe he went to work for WikiLeaks.

16 All right. So we got to come up with a crazy story for
17 this. Oh, I know the crazy story. He's seeking notoriety, he's
18 seeking fame. And when he sees the results from the Apache video,
19 Lord, oh, my, what he does then, he says, I need to go find some
20 Farah stuff because I only gave them the encrypted video which, they
21 haven't, you know, decrypted, as far as I know. So I need to give
22 them some more stuff because this will enhance my fame, my notoriety.
23 That's the logic that Major Fein argued yesterday. Really? And they

1 go with that logic because they say, you know what, when he pulled
2 all that supporting documentation in April of 2010, he didn't pull
3 the encrypted videos. And when didn't pull the encrypted videos,
4 well, that has to be proof that 5 months earlier he gave the
5 encrypted video to WikiLeaks. That has to be the way this works.
6 That's our child logic.

7 Let's look at something that maybe makes a little more
8 sense. Agent Shaver, the Government's own witness, on the stand said
9 you know what, I looked and I found evidence that PFC Manning pulled
10 a video from the T-drive, the T-drive in Iraq, from a folder labeled
11 Farah TGT1.WMV. And guess what? That video wasn't encrypted. And
12 it is a Farah video. And the Government never disputes that. They
13 never dispute that he pulled an unencrypted Farah video that was
14 available on the T-drive. They want you to ignore that evidence
15 because that doesn't really help their story. And kind of as a last
16 ditch effort they say, well, wait a second. This really helps us.
17 We want to say that because of the 8 January Tweet that they had this
18 encrypted video that they needed super computer on that that is why
19 they got the encrypted video. Well, again, 8 January is much earlier
20 than April, when PFC Manning gave them the Farah video and the Farah
21 supporting documentation.

22 But how did WikiLeaks get the encrypted video then? I
23 mean, if not PFC Manning, well, how? That's the Government

1 scratching its head going it must be PFC Manning. Well, I don't
2 know, maybe I can give another person that might be a suspect. That
3 would be Jason Katz. In an effort to, apparently, prove its case the
4 Government has proven certainly beyond reasonable doubt that Jason
5 Katz is the source of this video. But even beyond reasonable doubt I
6 think -- well, it's clear from the evidence Jason Katz is the source
7 for this video. What do we know about Jason Katz? Well, we know
8 he's using a program that allowed him to transfer files between his
9 computer and another computer. It wasn't his home computer. That's
10 from Mr. Withers. We know that he had password cracking software on
11 his computer. Again, from Mr. Withers. And we know that the company
12 he worked for BNL, had a supercomputer system, he had access to.
13 That's from Mr. Pham. So when Jason Katz is working on this,
14 before he's caught apparently, he's got the video, he's got the
15 computer password cracking software and he's got access to a
16 supercomputer. And a little hard to read, but go to PE 30 and they
17 highlight a couple things. And the first is PFC Manning saying to
18 Adrian Lamo they also caught wind that he had a video of the Gharani
19 airstrike and Farah video, which he has but hasn't decrypted yet.
20 Again, when did this chat take place? This chat takes place in the
21 May timeframe. And as the Government points out, WikiLeaks Tweeted
22 they had the encrypted video in January. And they needed
23 supercomputer time. Well another place -- So he talks about them

1 having the encrypted video but he never says, I gave them the
2 encrypted video. Then, again, when you look at the chats, Adrian
3 Lamo, and this again kind of highlights the inconsistency in the
4 Government's presentation of the evidence, asks anything else
5 interesting on the table, a former collector of information. And
6 Manning responds, I don't know. I only know what I provided to him.
7 And Adrian Lamo says, what do you consider the highlights? Remember
8 the highlights, the highlights, highlights comments that the
9 Government kept on harping on? That was a question by Adrian Lamo.
10 And what does PFC Manning say in response? He says, the Gharani
11 airstrike videos. Doesn't say encrypted. A full report. The GTMO
12 papers and State Department cable, database. Doesn't say I gave them
13 an encrypted video. Again, common sense doesn't check itself at the
14 door. It might for the Government but it doesn't for everyone else.
15 And common sense says, you don't give something to somebody that you
16 yourself don't know what it is. But you know what? You know what it
17 is. You can look at that video. And when we get to whether or not
18 it is a 793 offense, look at that video. Look at that video and
19 compare what the actual OCA says this could do to the country. And
20 say really? Really? When you look at the video, what it shows.
21 But, again, common sense is not an impairment to the Government's
22 argument. And they want to ignore the T-drive. And the T-drive, he
23 pulled the TGT1.WMV file and he put it on two locations. Agent

1 Shaver testified about that. And we know from Chief Hack that PFC
2 Manning was the most organized analyst he's ever seen in his 20
3 years. That's his words. When he looked at the T-drive, it was more
4 organized than he had even seen anyone else. When he looked at Chief
5 Balonek's, then Staff Sergeant Balonek's T-drive and he said it
6 didn't even compare. He barely had any information compared to what
7 PFC Manning did. And so you see a very, very organized PFC Manning.
8 And he has several directories and subdirectories and his files were
9 very neatly organized. And Shaver said he had pulled, again, a
10 folder -- a video from a folder labeled Farah and placed it on his
11 computer on two locations. Again, labeled Farah. Now unfortunately
12 we couldn't see that video. Couldn't pull it up. But it's clear
13 from the evidence that PFC Manning organizes things and labels them
14 what they are. We get that from Chief Hack. So it's clear to
15 anybody that this is the Farah video. When is it pulled? It's
16 pulled 17 April. When does he pull the other information? 10 April.
17 It's clear that this is the airstrike video that he gave to WikiLeaks
18 in April of 2010. Why does the Government reject that idea? Why
19 does the Government reject the idea that PFC Manning gave this in
20 April of 2010? And the reason why is it doesn't fit the fictional
21 story that they have drafted in their mind. It's an inconvenient
22 truth for them because they need PFC Manning to start to work for
23 WikiLeaks in the 2 weeks that he first arrives on the ground, because

1 they need to portray him as anything but what he actually is, a young
2 man who is naive but good intentioned. So their fictional story
3 relies upon the idea that he gave this video, encrypted video that he
4 couldn't see in November of 2009, and then waits 5 months to give the
5 supporting documentation. And they point to the fact that WikiLeaks
6 Tweeted that they had .mil addresses for the USFI GAL. WikiLeaks
7 Tweeted they wanted as many .mil addresses as possible. Again, this
8 is important to look at this because when WikiLeaks Tweeted this,
9 they didn't ask for the GAL, USFI GAL, they just asked for .mil
10 addresses, not Iraqi mil addresses. And the forensics for everything
11 that you have here shows that he didn't send this to anybody. And it
12 was the Division GAL, if anything. And why would PFC Manning do
13 this? The Government gave you a version of the events that they
14 believed that he still wanted to work for WikiLeaks and still wanted
15 to betray his country. But here's another common sense explanation.
16 And that common sense explanation relies upon information that we
17 received from many of the witnesses. PFC Manning was very talented
18 with computers. PFC Manning was somebody who could fix things, could
19 work on computers, was asked to work on the computers, did
20 programming. A lot of people talked about he was the most talented
21 person they had seen with a computer. At this timeframe, if the
22 Court thinks about it, he's removed from the SCIF and he's put in the
23 supply room. And we heard testimony that he didn't have things to do

1 every day, that oftentimes he spent time just on the internet. And
2 so seeing this Tweet, if he saw the Tweet, and it looks like one
3 could assume, yes, he must have seen that Tweet. A common sense
4 explanation would be that, can I do it? As a computer person, can I?
5 Can I export the email addresses? And we know that is probably
6 what's going on in his mind because then he researches how do you do
7 it. And then he pulls this information and, you know, he writes a
8 tasker for himself. And when he writes a tasker, again, that kind of
9 fits with PFC Manning of giving himself a job to do, giving himself
10 something to do to occupy his time. And so he writes the little
11 tasker. He does it. And what does he do with the information? He
12 leaves it on the supply room computer. Doesn't try to erase it;
13 doesn't try to wipe the supply room computer. And then he takes it
14 back to his personal computer and then deletes it. And I'll talk
15 about that more when I talk about the 641 offense.

16 But why does the Government want to argue that PFC Manning
17 stole, purloined and knowingly converted the USFI GAL? Why is that
18 their argument? Again, here it fits with their fictional story.
19 Their fictional story relies upon PFC Manning wanting to work for
20 WikiLeaks, wanting to do everything he can for WikiLeaks and not for
21 his fellow Soldiers. So that's the story and that's why they are
22 running with that story. And part of the way they support their
23 story is saying he wiped his computer in January. And that's why we

1 don't have certain evidence. He wiped it in January. Low and
2 behold, if he didn't do that we could have proven the whole Farah
3 thing but for him doing that. And that's their argument. If that
4 were true, again, this is the child's logic, if that were true, why
5 wouldn't you wipe your computer in February, when you gave the cable
6 and the Apache video. If he were really trying to cover tracks, what
7 about in March when he gave the ACIC, DAB, and OGA documents. After
8 doing that, if you are trying to cover your tracks, wouldn't logic
9 say, go ahead and wipe your computer? We know from Mr. Johnson's
10 testimony that it took 3 hours to do a seven pass wipe. So it's not
11 time consuming. Why not just wipe it, if that were really what you
12 are trying to do, cover your tracks? What about in April, Your
13 Honor, when he gave the Net-Centric Diplomacy Database, the Farah
14 video and Farah files. Once you did that, wouldn't you wipe your
15 computer in April, if you are really trying to cover your tracks?
16 And certainly, if you are really trying to cover your tracks, then in
17 May you are no longer on the T-SCIF, when you have been removed from
18 the T-SCIF and you are in the supply room. That would be the most
19 opportune time, if you were, in fact, wanting to cover your tracks,
20 to then wipe your computer. You no longer had access to anything
21 classified. There's nothing else you are going to be giving to
22 WikiLeaks. If you are, in fact, an employee of WikiLeaks, well, you
23 know, can't give you anything more, so I'm going to cover my tracks.

1 Well, he didn't do any of that. That's because covering his tracks
2 was not what he was trying to do.

3 So let's look at why would you do that when he did it.

4 Well, first the seven pass wiping. Government talked about seven
5 passes, seven passes. Well, that's according to Mr. Johnson, the
6 minimum when you wipe your computer. You can do a 35 pass you can do
7 even a higher pass. But seven pass is what you could do when you
8 want to wipe your computer. Why would you wipe your computer? And
9 we heard a lot of testimony about that from unit witnesses and Mr.
10 Milliman. Iraq is not an easy environment on computers. And where
11 was PFC Manning's personal computer? It was in Iraq. We know the
12 DCGS-A computers needed to be wiped on a frequent basis, have their
13 operating system reinstalled. We heard no testimony that
14 reinstalling the operating system and clearing unallocated spaces is
15 anything but normal. The normal process of basically getting your
16 computer back to square one, when you're having problems with it.
17 Again, that's an inconvenient truth for the Government. They want it
18 to be he's covering his tracks. He's just not very good at it. He
19 only does it one of the 5 months that he probably should have. Let's
20 ignore those facts. And why do they want to make a big deal out of
21 that? Why do they want to make a big deal that on 25 January he
22 wiped his computer and on 31 January he cleared his unallocated
23 space? Well, again, it fits with their fictional story. Doesn't

1 really fit with the facts. Doesn't really fit with what we know and
2 how common sense would work, but it sure does help our story. So
3 let's go ahead and run with that.

4 Then, to add insult to injury on their story they put up
5 the testimony of Specialist Showman. And Specialist Showman is the
6 person they are relying upon apparently to portray my client as a
7 person who has no loyalty to the country, as a person who is a
8 traitor. And they put Ms. Showman up there. Now she apparently has
9 this exchange with PFC Manning, and she has a certain understanding
10 of it. That even though she counseled him for drinking too much
11 caffeine, for taking too many smoke breaks, you know what, I just
12 never reduced that to counseling where he said he had no loyalty to
13 the country or the American flag to writing. She just didn't do it.

14 Why? Well, you know, just didn't think it was appropriate. Really?
15 You didn't think it was appropriate? That's her testimony. And then
16 importantly, when CID talks to her the very first time after PFC
17 Manning is arrested, and she knows why he's arrested, she never
18 mentions these comments to CID after the arrest. And why? I just
19 don't think they ever asked me about that. But I do mention the time
20 that he brought the camera into the SCIF and left it in the SCIF.
21 That was a bad thing to do. I did remember him staying late, so I
22 mentioned that. The one thing that you would expect at this point
23 for the person to mention right out of the gate, I don't need to be

1 asked a question. If I'm Showman and this happened you know what, I
2 was right. I was right. No one would listen to me I was right. I
3 said he had no loyalty to the country. The flag meant nothing to
4 him. I screamed at the mountaintop to Master Sergeant Adkins, I
5 thought he was a possible spy. I thought he was a spy. Nobody
6 listened to me. Showman would, you would expect her to be screaming
7 that from the mountaintop if that were true. But she doesn't. She
8 has this incredible story of going to Master Sergeant Adkins, telling
9 him about no loyalty to the flag, about being -- having no loyalty to
10 the country and I think he's a possible spy. Master Sergeant Adkins
11 then apparently, according to her, reports this up the chain. But
12 nothing happens. She never goes outside or around Master Sergeant
13 Adkins because that would be inappropriate. She doesn't use the open
14 door policy for the First Sergeant or the Company Commander because,
15 again, that would be inappropriate. And she deploys with somebody
16 that she thinks is a possible spy. And she becomes his supervisor
17 again. She does that, according to her, because well, I had faith in
18 Master Sergeant Adkins. We saw Master Sergeant Adkins testify and
19 the Court can judge whether or not that would be true, that you have
20 faith that he would take action on something, if something was said.
21 If it were truly said, you would expect her, she didn't see
22 something, I said how many times did you go back to him, five times.
23 I went back to him time and time again asking about this. Master

1 Sergeant Adkins doesn't remember any of that. Why would she lie
2 then? Why would you she make up this story? Well, okay, here's a
3 common sense explanation for that. She's got a motive to fabricate.
4 She doesn't like PFC Manning. He punished her. He made an EEO
5 complaint against her. We see statements in the movie where she
6 talks about the fact that, you know, this is not somebody who has
7 loyalty to the country, somebody who does this is not somebody who is
8 a true American. And she says that those comments were not about PFC
9 Manning. And yet the facts are somebody who joins the military, who
10 has access to classified information, deploys, gives that
11 information, not just to anybody, not to an American company or
12 something like that but to a foreigner, that's not an American.
13 That's not somebody that has loyalty to our country. No, no, no, I
14 wasn't talking about PFC Manning, I was just in general talking about
15 that. It's clear she has her firm belief. And it's no clearer when
16 you look at her Twitter account, when she said, anyone who would
17 follow PFC Manning or support what he did essentially are idiots or
18 ignorant people. And saying that ignorant people do what PFC
19 Manning did. She clearly has a motive to fabricate. And then we
20 look at Mr. Adkins -- Master Sergeant Adkins. He doesn't remember
21 her telling her [sic] any of this stuff. He doesn't recall or
22 remember that. And he indicated he has problems with his memory.
23 Something that the Defense did not know. But, he says, yeah, I don't

1 recall that. I don't remember that. But here's some important
2 facts. He never wrote about the alleged statements in his MFR. The
3 MFR he wrote that's in evidence he talked about the behavioral
4 issues. This wasn't put in there. Something you would expect. He
5 does talk about the events that happened prior to the deployment. He
6 never mentions any of this in the multiple interviews that he gave to
7 CID or to the 15-6 investigation. Never mentioned this at all. And
8 he says, on the stand, yeah, I would expect I would have said
9 something about that, if I knew that. In his GOMOR rebuttal he
10 states PFC Manning never made disloyal comments. And he admitted to
11 that. But then the one little piece of evidence that the Government
12 wants to latch on to, a week or a month later after the GOMOR
13 rebuttal saying Manning never said any of those disloyal comments
14 that I'm aware. A month later in the admin reduction board rebuttal
15 he said, oh, I correctly reported the disloyal comments. Specialist
16 Showman testified to that. I correctly reported that up the chain.
17 Then he admitted on the stand that his attorney wrote that for him.
18 And he admitted on the stand he didn't want to get reduced from
19 master sergeant, to sergeant first class. And I think when you look
20 at the timeline, apparently, I asked him, does your memory, you know,
21 increase, get better in time; do you sometimes remember things,
22 sometimes not? And he's like I really don't know. There's no stock
23 that you can place in the Government's evidence on this. But this is

1 the evidence that they chose to run with. This is all they have to
2 say anything about PFC Manning being disloyal to the country. But
3 please ignore the fact that, this is the Government speaking, ignore
4 the fact that everyone else in the unit, and several unit witnesses
5 said, PFC Manning never said anything to me that indicated
6 disloyalty to the country or not being loyal to the American Flag.
7 And all the other unit witnesses talked about the fact that he was
8 the person they could rely upon to get a job done. He's the person
9 that they gave taskers to and he got the job done. So apparently
10 this disloyal person, who has no loyalty to the country or flag, he's
11 one of their go-to-analysts, one of their best analysts. And this
12 kind of goes to a couple disconnects in logic for the Government.
13 Are they trying to say he was arrogant and seeking fame or trying to
14 say he wanted anonymity and was trying to cover his tracks? Here are
15 some quotes from yesterday's closing by the Government. Stuff that
16 he wanted to do to guarantee his fame; to get attention from the
17 press; he sought publicity; he collected trophies. And the trophy
18 they are talking about there, apparently, I think is the SD card and
19 perhaps the CD that was found in his CHU.

20 So let's talk about just the CD for a moment. A common
21 sense explanation for why the CD would be in there. After the Apache
22 video was released, Captain Fulton came back and said she didn't
23 believe it was legitimate. She didn't believe that was the actual

1 video. And that's what PFC Manning told her, no, we have the video.
2 It's on the T-drive. I can send it to you. She said, do. And she
3 compared it. And then she said, okay, that's the same video. And a
4 common sense explanation for why PFC Manning might at that point burn
5 a video isn't to collect a trophy. Really that doesn't stand up to
6 any logic. The video is available online. At that point what trophy
7 are you collecting, when it's available online? Look at how it's
8 labeled. A common sense explanation, when you compare that with the
9 FOIA response, where the FOIA response by CENTCOM, doesn't indicate
10 that a video was ever found, would then explain why someone might
11 make the video and make it look like it is a Secret video and label
12 it as such in order to give it authenticity and not just some video
13 and label it Reuters FOIA request; again to give it authenticity.
14 And then when you look at the emails that the Government introduced
15 into evidence where he wrote to various journalists about where this
16 video could be found. Again, that gives you a common sense reason
17 for why he might make this copy. Or you can believe the Government
18 collecting trophies.

19 Then the second part, wanting anonymity, obsessed with
20 covering his tracks. Wanted then to protect the source. He tried to
21 erase any evidence of what he did the one time he wiped his computer.
22 So these things don't really compare to each other. You can't really

1 seek anonymity and then seek fame at the same time. That's
2 problematic.

3 And then here's the other problem. Is he a good Soldier or
4 is he a hacker? The Government offered a lot of evidence that he's
5 the go-to-analyst. That he did a great job, was one of the best at
6 what he did. We heard evidence that he never had problems getting
7 his work done. In fact, he always got his work done on time. There
8 were some occasions where he couldn't complete something because he
9 didn't know how to do it for sure. That wasn't abnormal. Captain
10 Lim talked about, as a junior analyst you would expect that. And
11 even though PFC Manning was the go-to-analyst for doing that, he was
12 the go-to-analyst basically to collect stuff and to organize it, but
13 he wasn't the best at actually connecting all the dots, he wasn't the
14 best at doing analytical stuff. But again, that wasn't abnormal
15 because he was a junior analyst. And then the Government says he
16 spent his time systematically harvesting information. That's their
17 kind of like catch phrase. And they try to say he had a 2-week
18 mission for the Net-Centric Diplomacy Database, if you remember that.
19 Well, the problem with that, he's getting his work done on time.
20 Nobody is saying he had a 2-week drop in his work performance. We
21 heard evidence that Wget would perform as a background function. He
22 could still do anything else. He didn't have to be paying attention
23 to it. So, again, that doesn't add up. Is he constantly searching

1 for WikiLeaks or is he the most organized analyst in the S-2 section?
2 Again, that's kind of a logical disconnect between what the
3 Government is arguing. If he's constantly searching for information
4 for WikiLeaks, the Government points to the amount of the documents.
5 But remember that it doesn't take very long to download these
6 documents. And back in the day when you would have to take documents
7 and copy them, a few hundred documents would mean a lot, because you
8 are actually putting on a copier and copying it. Nowadays with a CD
9 this is not a lot of documents. In fact, when you look at how much
10 information, and based on the testimony, how much information was
11 available on SIPRNET, his unlimited access to SIPRNET, his unlimited
12 ability to download information, his unlimited ability to then take
13 it out, if he wanted to. The amount of the documents in this case
14 actually is the best evidence that he was discrete in what he chose.
15 Because if he was indiscriminate, if he was systematically
16 harvesting, we wouldn't be talking about a few hundred thousand
17 documents. We would be talking about millions of documents. But
18 again, that's not a convenient fact for the Government.

19 Then, if we are following the Government's logic, then PFC
20 Manning is the worst employee of all time for WikiLeaks, the absolute
21 worst employee. They gave him the guiding light, the 2009 Most
22 Wanted List. They told him exactly the 78 items that they wanted.
23 And this employee of WikiLeaks managed to at best search for four of

1 those items. And he had unlimited access, unlimited ability to do
2 everything he needed. He has to be the absolute worst employee ever
3 because of all the access. If he actually was using this for guiding
4 light, you wouldn't see four out of 78. You would see, well, 78 of
5 78, searches. We can show every one of those things. And the very
6 first thing, General Order Number 1, the easiest thing to access, not
7 only did he pull it and access it, but we can show he sent it, if he
8 was actually using that as his guiding light. But that's not a good
9 fact for the Government. So let's ignore that. Let's ignore that
10 he's the most organized analyst, that he gets his job done when he's
11 given a tasker. Let's just say when it comes to WikiLeaks and he is
12 not very organized and he doesn't get his job done. Then this makes
13 sense.

14 So when you look at the Government's version, their story
15 not only doesn't make sense but their story is not even internally
16 consistent. That is typical of the Government's story. They ignore
17 what is the consequences of a certain argument to another argument of
18 theirs. There's a phrase, thinking short instead of thinking long.
19 They think short every instance. They just think, how does this
20 prove this one little thing. And they ignore the fact that it really
21 does disprove something else in their argument. You really have to
22 ignore it or you have to listen to them and say, okay, well, for this
23 version of the events I will accept it, that he's very organized,

1 very good Soldier, does his work. But over here I'll ignore the fact
2 that he didn't do anything when it came to the 2009 Most Wanted List.
3 The two don't match up. And when you talk about the motive, the
4 ultimate motive, the only thing you can pull from them for a motive
5 is the Showman stuff and the not being loyal to the country, being a
6 traitor. None of that is based upon any evidence that actually came
7 out in the case. It's as if the Government heard a whole different
8 case from what actually came out through witnesses testimony. None
9 of that bears out. If he were a traitor, if he were somebody who
10 sole focus was to hurt the United States, or wanted to help
11 WikiLeaks, you would see a lot more disclosures. You wouldn't see
12 the discrete disclosures. You wouldn't see the things that dealt
13 with loss of human life.

14 So what I will do before I go into this now is, I would
15 like to take a 15 minute break and then I'll talk now having
16 discussed the Government's version, just talk through the charges.

17 MJ: All right. Any objection to a 15 minute recess?

18 TC[MAJ FEIN]: No, ma'am.

19 MJ: Court is in recess until 5 after 11.

20 [The court-martial recessed at 1051, 26 July 2013.]

21 [The court-martial was called to order at 1113, 26 July 2013.]

1 MJ: Court is called to order. Let the record reflect all
2 parties present when the Court last recessed are again present in
3 court. Mr. Coombs.

4 CDC[MR. COOMBS]: Yes, ma'am. For the second half I'm going
5 to transfer to talk about the charges. Although it is a little
6 unusual, I would invite questions from the Bench during this time
7 period. If there's anything that I say that you have questions on, I
8 think it's important, as we go through these charges, that I don't
9 fail to answer a question for the Court.

10 So to start off, before we actually get into any of the
11 offenses, PFC Manning was young and naive. That is the Defense's
12 position. But the Defense's position also is that he wasn't wrong,
13 not in the sense of wrongful in giving information, but he wasn't
14 wrong in the sense of whether or not this information could cause
15 damage to the United States or be used to the advantage of any
16 foreign nation for the prohibited purposes. Our position is that he
17 was not wrong with that fact. And what we ask this Court to do is
18 something that the Government never did yesterday, is actually look
19 at the evidence and then go ahead and take a look at the charged
20 documents for the 793 offenses, look at that evidence and then
21 compare that with the statements from the OCAs and the other
22 individuals that say this stuff could be so terrible, could cause all
23 these various damages. No one wants to question the OCA. If we

1 learn anything from this case, it's that nobody wants to question the
2 OCA. Even my own experts, when they are on the stand, will say,
3 look, I will disagree maybe privately with an OCA, but I would never
4 publicly disagree with an OCA. Why is that? In a classified
5 evidence case the OCA's opinion is sacred no one can question it. It
6 is beyond reproach. The OCA has a final say. And when the OCA says,
7 hey, this is classified, this could cause serious damage or this
8 could cause damage or some damage, that is the OCA opinion and we
9 cannot question that. Why do we even have a 793 offense that
10 involves anything but OCA's determination once the OCA makes the
11 determination, done.

12 MJ: I will ask you one question. What is a DUSTWUN?

13 CDC[MR. COOMBS]: Yes, ma'am. These are the buzz terms that
14 Major Fein uses throughout this case and yesterday. TTP is troop
15 movement, close air support, weapons systems, unit identifiers,
16 DUSTWUN, basically for our missing Soldiers. These are the
17 procedures we use to recover. The whole thing stands for an acronym
18 which I don't have memorized. It is basically to find missing and
19 located Soldiers. They pointed to a particular SIGACT that they say
20 gives away our DUSTWUN procedures. When you look at that, these buzz
21 words, TTP, troop movement, close air support. If all you do is
22 listen to the buzz words, and say oh, that gives away our TTPs, that
23 could cause damage. Therefore, clearly this meets the requirement

1 for 793. What we ask the Court to do is actually look at the
2 evidence and look at the opinion of the OCA. And in this situation,
3 at least in this courtroom, the OCA's opinion is not above reproach.
4 The OCA's opinion is -- and according to my co-counsel DUSTWUN stands
5 for duty status whereabouts unknown.

6 MJ: Thank you.

7 CDC[MR. COOMBS]: Thank you. That was going to bother us.
8 Thank you, Major.

9 When you look at that, those buzz terms independently by
10 themselves do not mean anything. It's only if you can actually tie
11 that to something. But the OCA doesn't do that. None of the
12 government's witnesses did that. What they did is they talk in
13 generalities and they want this Court then to just follow along with
14 them. But now is the time to say, the Emperor has no clothes when it
15 comes to this stuff. Because, when you look at these items that are
16 charged, PFC Manning did selectively choose what he was going to
17 disclose. And the items that he chose were items that we should know
18 but would not cause damage to the United States. Would not be used
19 to the advantage of any foreign nation. Certainly not when it's out
20 in the public.

21 So let's look at each of the offenses. The Apache video,
22 Specification 2 of Charge II. What we know about that. Well we know
23 -- It wasn't classified. And it wasn't closely held. We know it

1 wasn't closely held because Mr. Finkel clearly had a copy of the
2 video. Now granted he didn't quote the entire video in his book.
3 That might have been kind of a boring passage for him to do that,
4 because the Court has seen the verbatim transcript of the video. But
5 importantly he did quote the video verbatim when he does quote it in
6 his book. So it's clear he had a copy of it. And the sources and
7 message for Finkel's book talks about the fact that only two
8 occasions did the military ask him not to disclose or talk about
9 something because of it being sensitive. So by logical inference
10 from that, when he does talk about the video, this was not one of
11 those things.

12 You see the CENTCOM FOIA response. That talks about, in
13 response to Reuters' request, it doesn't identify a video at all. It
14 identified what they found. Not a video. Something that Reuters
15 wanted. PE 15, the CD in PFC Manning's CHU is labeled Reuters' FOIA
16 request. PFC Manning clearly was aware of FOIA request. He clearly
17 did research. He was aware of Finkel's book and the fact that was
18 quoted verbatim. And he clearly was aware of the fact that Reuters
19 wanted it. And when the Government talks about the edits and how
20 somehow WikiLeaks edited this for maximum exposure, worst effect, or
21 whatnot, those edits were for Reuters. It was the Government that
22 asked you to see the last portion. Initially the Defense wasn't
23 going to play the last portion of the video. But the Government

1 wanted you to see the entire video. When you look at the entire
2 video, that actually is just a lot more damaging evidence of kind of
3 a disregard for human life. People walking into a building, who
4 happened to be carrying a weapon, one person, and perhaps at that
5 point the rules of engagements were such that, if they were carrying
6 a weapon, they were a target. There are a lot of reasons someone might
7 carry a weapon in Iraq at that time period to include self-
8 protection. But the person walks into a building. We don't have any
9 idea who is in that building. If that person walks in, we see other
10 people walk in without weapons, and yet that building is targeted.
11 So what the Government wanted you to see the rest of that what was
12 edited out, wasn't something that made the Government look good. It
13 was actually further evidence of a kind of disregard for human life.
14 So that's not evidence of WikiLeaks trying to do anything.

15 And then Defense Exhibit Oscar, the classification review
16 is at odds with Chief Larue and what his opinion is. That in kind of
17 in a nutshell really shows you how subjective this whole realm of
18 classified information is. Very subjective in what is classified,
19 what potential damage could happen or couldn't happen. If you look
20 at Chief Larue and you compare that with Rear Admiral Donegan and
21 there is a difference in their opinions clearly. One says it
22 couldn't even cause embarrassment. The other is, this is almost the
23 end of the world that this has been released. We have seen that even

1 in this courtroom of potential spillages on various things. The idea
2 of what is classified and what harm can befall us, if certain
3 information gets out. And clearly this Court cannot engage in what
4 is and is not classified. That is not this Court's role, but this
5 Court's role is to engage in what would meet the requirements of 793.
6 And at that point, granted, you're put in a little bit of a
7 difficult position of looking at what the OCA say and judging for
8 yourself. But that's exactly what the Defense believes the Court
9 needs to do is to look at the charge document, look at the OCA's
10 opinions and those stipulations of expected testimony from witnesses
11 and then match them up. And just look at that from your own common
12 sense and say, does that make sense to me? Do I, in fact, believe
13 that that could be a result from this? And it's almost like the kids
14 games that we played or that were played when you're in grade school
15 of certain rules for our club. And these are rules for our club. No
16 boys allowed. No girls allowed. Or you can't say certain words.
17 And, if you did, there would be some terrible effect that would
18 befall us all. That's the whole classified information realm. And
19 certainly there are secrets that could gravely impact our country.
20 PFC Manning had access to those. We talked about HUMINT reports.
21 You heard from witnesses the HUMIT reports were very, very sensitive.
22 He had access to those from CIDNE. HUMINT reports were our no
23 kidding sources. They were the individuals who we were relying upon.

1 They were so sensitive we identified them by number in HUMINT
2 reports. Not their names. But even the number might give away some
3 information on that because it might talk about where they are from.
4 And Captain Lim talked about HUMINT reports and how sensitive they
5 were. That's something PFC Manning had access to. So that could be
6 something where you looked at it and you saw what they said, you
7 matched it up yes, I could see that. As we go through the rest of
8 these, these are that type of information. This does speak to how
9 selective PFC Manning was.

10 Look at the Farah video. We have heard a lot of testimony
11 about the video. Well, first of all, the Government didn't prove
12 that PFC Manning was the source. And not to repeat myself, but there
13 is another fact that the video matched the video, bit by bit for the
14 video from CENTCOM, encrypted video. And how Mr. Katz got that video
15 the Government wants you to believe it's from PFC Manning. But
16 there's no evidence of that. In fact, Mr. Katz could be the source
17 from somebody else and he could be the source for WikiLeaks on that.
18 In order to get to the Government's version you have to kind of
19 suspend your disbelief and again believe that PFC Manning's first
20 item that he would select to give to WikiLeaks would be something
21 that he himself did not know what it was, could not see it. Special
22 Agent Shaver gives him a more common sense version. And when you
23 look at the video again, take a look at the part where it is

1 classification review on this video. And then look at the video.
2 The Court has the ability to look at the video. Look at that video
3 and then match up what he says could happen. How it could be used
4 for the prohibited purposes and look at the video. And see, even
5 with an eye towards the Government's version of events, see if you
6 can make that leap of logic and say I can even see what's written
7 there. And certainly, when the OCA says it, you almost want to defer
8 to the OCA. But you can't in this instance and you can't in this
9 case. And the reason why is the OCA, whether the OCA is military or
10 Department of State, or any other agency, has a vested interest in
11 saying that they got it right with their classification, that their
12 determination was correct. And they have a vested interest then in
13 saying that that information could cause various damages. It would
14 be refreshing to see an OCA say, you know what, this was
15 overclassified. This really didn't need to be classified. And the
16 one OCA kind of, in this case he wasn't an OCA, he just did a
17 classification review, Donagen on the Apache video, the Government
18 wants you to ignore that fact. We had to fight to get that in.
19 Because that kind of was an out of the normal line opinion. Because
20 the general opinion is, oh, yes, we got it right, when we classified
21 this information.

22 Let's look at the Farah documentation, in Specification 10
23 of Charge II. The documentation that's charged there discusses a

1 large scale CIVCAS, Civilian Casualty Incident. That incident
2 received worldwide attention. Lieutenant Commander Hoskins said in
3 his review he didn't consider open source material or unclassified
4 publications like various Army regulations or field manuals. He
5 didn't consider any of that when he was making his determination
6 whether or not this stuff could cause damage. But just like with
7 everybody else, we asked you to look at the basis of the opinion and
8 then look at the information and see if you can connect those dots.
9 Because much like the Government's case, if you just take it at face
10 value, it's fine. But any closer inspection and it starts to fall
11 away. It really doesn't hold water. And the reason why it doesn't
12 is because this makes sense when you speak in generalities, when you
13 actually say, you know, they could do this because it gives away
14 TTPs. Well, the time to actually say what -- why this is the case,
15 why the TTPs would be in these documents where they could express
16 that to the Court. Again, the generality is what they want to give.
17 They don't want you to question it.

18 The next item is the 1030 specification. This I will spend
19 a few slides on. The specification at issue here is Specification 13
20 of Charge II and Specifications 2 and 3 of Charge III. The first
21 thing is Wget was not something that was prevented from running. And
22 we could have prevented executables from running on the DCGS-A
23 computers. Soldiers were allowed to add executable files to the

1 computer. We had plenty evidence of that. I'll highlight some of
2 that in the upcoming slides. Even if the use of Wget was
3 unauthorized software, that does not take something from an Article
4 92 violation and make it an access restriction for 1030 purposes.
5 And there definitely is a difference in the use of something that
6 might be unauthorized and exceeding your authorized access. The
7 reason why is there no such thing as an implicit access restriction.
8 You have to knowingly exceed your authorized access. There can't be
9 an implicit access restriction where we are going to fault you for
10 not knowing that this was an access restriction. There has to be
11 some warning or some way in which you clearly had to either violate a
12 access restriction that was laid out when AUP under the Court's
13 ruling or you exceeded -- you bypassed some technical or code based
14 restriction. What is important here is we don't have the AUP. The
15 Government could never produce an AUP from anyone in the brigade that
16 signed an AUP while in Iraq. They rely upon the general 25-2
17 version, but we know from the testimony of Captain Cherepko that we
18 can't rely upon that version. When words matter, not only on the
19 Charge Sheet but they really do matter when you're saying there's an
20 access restriction. And the access restriction here you would find,
21 if you found one, would be in an AUP. That's something that the
22 Government has not and cannot produce.

1 So what do we know about what you could do. Well, we know
2 from the unit there were no real rules. There were no rules.
3 Colonel Miller testified about the fact there were no restrictions on
4 downloading. I asked him, was there any sort of restriction on how
5 you download information? His response was what, like click open,
6 and he didn't complete the phrase. But I said, yeah and save. I
7 said, yes. He said, no. Well, that's problematic for the
8 Government's theory. There was no restrictions on downloading from
9 the Net-Centric Diploma Database. Captain Lim testified he gave the
10 link. He didn't put out any restriction. The Government wanted to
11 make it seem as if you could only go there and look at stuff that
12 dealt with Iraq. And I asked Captain Lim that question. Captain Lim
13 said, "no," you could explore things, as an all source analyst that's
14 why you would. I wouldn't prohibit a Soldier from doing that. And
15 you could read other things just as general knowledge, if you wanted.
16 Even the Court asked, if you were bored at some time, you didn't want
17 to watch a movie, you didn't want to listen to music, you just wanted
18 to surf the SIPRNET and look at things, could you do that? And the
19 answer was, yes. There were no restrictions on that.

20 There's also importantly no training on any so-called
21 download restrictions. The Government has created that out of whole
22 cloth in order to again kind of fit with their story. But there was
23 no click, open and save training or any sort of restriction. Captain

1 Cherepko talked about the fact that PFC Manning didn't need anything
2 to gain access to Net-Centric Diploma Database. That was because the
3 only restriction was that you had to have SIPRNET access. That is
4 it. Chief Ehresman talked about there were no restriction on using
5 executable files from CD or a desktop if you used it from a shortcut
6 to download files from the SIPRNET. The Court asked that question.
7 Was there any sort of restriction on using an executable file to
8 download information from the SIPRNET? Answer, no. Mr. Wisecarver,
9 another great source for any sort of access restriction. He
10 testified about no restrictions on the manner of downloading. No
11 restrictions even on access. The only access restrictions were that
12 you had access to SIPRNET. And importantly what he said was, the
13 Department of State relied upon the receiving agencies for any sort
14 of restrictions. And the reason why was their purpose was to share
15 the information. And then we got into the Government trying to paint
16 a click, open and save restriction. They wouldn't want to qualify
17 Mr. Wisecarver as an expert, because when Mr. Wisecarver did talk the
18 Net-Centric Diplomacy Database and its creation, all he could say
19 was, that was contracted out to an independent organization. CITI.
20 CITI was the one that designed the Net-Centric Diplomacy Database.
21 He wasn't aware of any sort of restrictions. And then -- So then
22 they talk about, well what's your experience with that, when you went
23 there? Well, my experience was that you went there, you typed in

1 something, you could click on cable, open it up, and then you could
2 do anything you wanted with it. He did admit that you could have
3 multiple screens, if you wanted open to print and save. But again,
4 no restrictions.

5 And then the Government's own witness, Special Agent
6 Shaver, talked about Wget. The Government spent a lot of effort and
7 time in trying to make Wget a nefarious program. What did Special
8 Agent Shaver say about it? It doesn't give you any greater access. He
9 said, look, it didn't do anything but automate the click, open and
10 save process, to the extent we are going to follow that red herring
11 to mean some sort of access restriction. It just automated it.
12 That's all it did. Wget accessed each individual cable individually
13 in order to open and save it. And he said it wasn't a nefarious
14 program. It was just a simple command line program. So when you
15 think about that, Wget, what it did was just automate the click,
16 open, and save, it sped up the process certainly. And what the
17 Government wants to now read into that is, even though you could
18 click, open, and save you couldn't automate that. And because you
19 automated that and you made it much faster. Now you exceeded your
20 authorized access. Well, again, there's no access restriction laid
21 out anywhere that said that was a problem, that you couldn't do that.
22 And importantly, when we talk about the things that you could do and
23 couldn't do, the aspect for the 1030 is, PFC Manning would have to

1 knowingly exceed his authorized access. And that is where we have a
2 wealth of information to show that what was and was not prohibited in
3 the T-SCIF was really subject to interpretation on who you asked.
4 Captain Keay was probably the best witness to present the fact that
5 there was just confusion. He didn't know for sure. He was new to
6 the whole thing. Didn't understand what was or was not acceptable,
7 asked people. Never really got a good answer. The reason why he
8 didn't get a good answer is because nobody was consistent. Colonel
9 Miller, Specialist Showman; movies and music were good. Not a
10 problem. MWR, Moral Welfare. Captain Lim, movies were bad,
11 absolutely prohibited. Music, on the other hand, that's fine.
12 Captain Cherepko, well, the person who is the assistant S-6, the
13 person who really is probably the subject matter expert on what is
14 and is not allowed says music and movies were bad, that he did
15 everything he could to remove these things, that there was no
16 authorized T-drive, Captain Cherepko S-6 approved music, movies and
17 games and executable files. He testified about the fact that he
18 would remove that stuff and when he did, it would magically reappear.
19 And he went to the chain of command to complain about that, to tell
20 them that this is an information assurance problem. And nothing was
21 done.

22 The Government yesterday made some sort of argument that
23 there was no evidence that a particular Soldier added something to

1 the T-drive. Well, there's plenty of evidence that unit added stuff
2 to the T-drive because Captain Cherekko said, I kept deleting it. It
3 kept going back. It never stopped until we unplugged the system to
4 redeploy. Chief Balonek, he didn't know if movies and music were bad
5 or not. Madaras thought they were allowed. Milliman said, no music,
6 movies or games. But importantly Milliman said, even though there
7 are no movies, music or games, I couldn't tell them to take it off.
8 They didn't work for me. I worked for them. So even when it came to
9 the DCGS computer, there was not only a lack of understanding what
10 you could do, but the people who would have, I guess the authority,
11 didn't even believe they had the authority to make a change.

12 And then we added more confusion based upon the
13 Government's witnesses. Mr. Weaver, the expert from 25-2. And we
14 asked him a pointed question of, well, you know, would this be
15 allowed, could this be allowed, music, movies and games. And his
16 response was telling. His response, do you want the book answer or
17 do you want the real world answer? And that's because there's a
18 difference between the two. And we see that also with Chief Balonek.
19 Things were different deployed as opposed to garrison. Deployed
20 there were no rules. Deployed nobody was really worried about
21 information assurance. Deployed people were adding things to their
22 computer that apparently in garrison would not have been allowed.
23 And when you look at the 25-2 prohibition, it's always without

1 authority. It lists those things and it says, without authority.
2 And then the question has to become, was there authority? And mIRC
3 chat is a good example. mIRC chat is an executable file. No dispute
4 on that. mIRC Chat, according to Mr. Kitz, the Government's own
5 witness, who is the DCGS-A expert said it was not authorized as a
6 baseline package. It was not authorized. He says, the commander
7 must request it. He must request to add a particular program, in
8 this case mIRC chat. That's different from Mr. Milliman. Mr.
9 Milliman said it was authorized on the DCGS-A and I did put it on.
10 Colonel Miller talked about, I never asked, never made a request for
11 mIRC chat to be added. When you look at the executable files and
12 games, and look at what the witnesses said, here you have, again,
13 further confusion. Captain Cherekko, you know, made it seem as if
14 you could use executable files but only from CD, if that's somehow
15 different than putting it on your desktop. If you did having
16 something on your desktop, it could only be a shortcut to the CD.
17 But then -- You know, I was a little confused by that.

18 And then you look at the rest of the witnesses. They
19 talked mIRC chat being added on their computer importantly by whom.
20 It was PFC Manning that added mIRC chat on their computer.
21 Specialist Showman said that, Sergeant Madaras said that. It wasn't
22 Mr. Milliman. And Captain Fulton said mIRC chat was added to her
23 computer but she wasn't for sure who did it. All of this kind of

1 shows that nobody really truly understood the rules. No one truly
2 understood what was and was not prohibited. And there wasn't any
3 clear line of what you could and could not do. And really the
4 problem with that is Captain Lim talked about there was no SOP for
5 the T-SCIF. The SOP would tell you what you could and could not do.
6 And so without an SOP and without any clear rules, there's no way
7 that PFC Manning would know that using an executable file that he was
8 authorized to use in his mind was somehow now exceeding authorized
9 access.

10 And you look at the Article 92 offense now for covering his
11 tracks. This is the trying to access or get the password. And here
12 there's a problem with the Government's theory. The Government says,
13 you know, he's trying to get this and they point to the rainbow table
14 searches and they also point to asking Press Association if they
15 could assist in some way. It's to basically be able search with
16 impunity according to the Government. And then, lucky for us he
17 doesn't get that. If he were to have gotten that, that's when he
18 would have gotten a lot of stuff, because it would have been with
19 impunity, no one would find out. Well, the problem with kind of that
20 logic you would still be able to show on the receiving end where
21 stuff was taken, you know, what was accessed. You wouldn't be able
22 to show the user, but you would be able to show probably the .22, .40
23 computer. Not signing in as yourself doesn't give you the ability to

1 do things with impunity. It might give you plausible deniability
2 that it wasn't me, but it's not with impunity. And the idea of
3 breaking the passwords, Mr. Milliman testified about that. He
4 testified that when the unit first got there, the S-6 did break his
5 password. And what was the purpose for that? Well, they didn't want
6 to have to go to him in order to add certain things, printers or
7 other software. And then he had to tell them, hey, these machines
8 aren't yours. I'm the person who is only one authorized to do this.
9 Specialist Showman testified about the fact that PFC Manning was
10 asked to break passwords. And talked about the fact he could do it.
11 And I asked her, well, did anyone at that point when he was talking
12 about that say, wait a second, you can't do that on our computers.
13 The answer was, no. Why? Because this was yet another example of
14 there was no information assurance rules. This is another example of
15 a difference between the book answer and what was happening in the
16 real world. The real world was no one would care what you did and
17 what you added it.

18 Let's talk about the 641 offenses. Understanding that we
19 have an outstanding motion on the issue, but when you look at what
20 the Government charged, the Defense's position is that they failed to
21 prove and meet their burden in two instances. They did not prove
22 that PFC Manning stole, purloined or knowingly converted the charged

1 databases. And they also failed to prove that he used an information
2 system in violation of 25-2. And for the information system ----
3 MJ: Is that a separate violation or does that go to the 641
4 offenses?

5 CDC[MR. COOMBS]: The Spec 4 is his pulling down information,
6 using that in the GAL, the USFI GAL. Using that for -- in a way
7 other than intended.

8 MJ: Okay.

9 CDC[MR. COOMBS]: Basically doing something in violation of
10 the information system. So let's look at the value. Because for 641
11 our position they haven't proven that the PFC Manning stole,
12 purloined, or knowingly converted databases. I think we all can
13 agree that the evidence shows that the databases were never taken out
14 of the custody and control of any of the ownership interest. So the
15 witnesses testified they always had access to the CIDNE database,
16 always had access to the Net-Centric Diplomacy Database, the GAL was
17 never taken, the DABs were never taken. From the database standpoint
18 we know that the Government has failed in that proof. Now if the
19 database means the original records, and understanding there's a,
20 under the Court's ruling for a digital information it doesn't seem
21 that there is a difference between an original or a copy.

22 I want to address it in this way. For the original records
23 because that's where the value comes in. Mr. Bora, for the CIDNE-I

1 and the CIDEN-A, testified about the millions, and millions, and
2 millions, but that was not for the record production. That was all
3 for the support of the database. So you don't have anything from him
4 on the original records for CIDNE-I or CIDNE-A. The DABs, I say
5 there is no evidence of value from Mr. Motes. And the reason why I
6 say that, and argue that, is using the Court's own 27-10 example,
7 Mr. Motes testified about the amount of time, the 55 to 60 hours or
8 so, that went into the creation of a single DAB. And then the
9 Government, with their math, valued that, they would be worth
10 hundreds of thousands all these DABs that's the 27-10 example. If
11 somebody steals AR 27-10, even the original, say the original is
12 somewhere and that person stole the original 27-10, the very first
13 creation of it, as the Court asked, you would not value that with all
14 the hours that were spent from a Judge Advocate reviewing and
15 drafting it, all the other hours spent by somebody else getting
16 information together and group sessions on what should be in 27-10,
17 what should not be. None of that stuff would be used to prove value.
18 That's what Mr. Motes' testimony is about, the hours spent collecting
19 and harvesting and putting this information together. That is the
20 27-10. That is not value of the record. The record value would be
21 somebody coming in and saying, all right, somebody sat down and they
22 typed that DAB, and it took them X amount of time to type it. That
23 was the creation of that record. That would be the value of that

1 record. The Motes stuff, if at all, if you could make that logic
2 work, would be somehow valuing the information within the record.
3 But there's no case law for valuing information as cost of
4 production. And so Mr. Motes' testimony really is the 27-10 example.
5 Mr. Wisecarver didn't testify about any valuation of the Net-Centric
6 Diplomacy Database or the records within there. All he said was,
7 there was somebody who got paid around \$70,000 to maintain the
8 database. So his testimony doesn't give you any sort of valuation
9 for the original records.

10 The GAL is very similar to Mr. Motes. The testimony that
11 you got from Chief Nixon and Chief Rouillard talked about, I think it
12 was mainly Chief Rouillard, talked about the 10 to 15 minutes or so
13 that it took to create each record. Government used that to
14 extrapolate some crazy number of how much the GAL would be worth from
15 a cost of production standpoint. But you got to look back at that
16 testimony and see. What he said essentially was, the time that a
17 Soldier comes in and says, hi, I'm here in Iraq. I need to get an
18 email. And they say, okay, here's the form you need to fill out.
19 Alright, thank you, and he fills out the form, he hands it back to
20 them, and they take the form back and then they are, okay, let's
21 create this email address for you to make sure you're okay and then
22 go on your merry way. That is 10 to 15 minutes. That's the 27-10
23 example again. The time that it took for one particular Soldier to

1 fill out all his information on a form and the time that it took for
2 that Soldier then to hand it over to somebody. What you would value,
3 if you are truly valuing the creation of a particular email address,
4 and that was the original record was taken, that email record was
5 taken, it would be the time that it took somebody to enter it into
6 the GAL. That would be where that cost of production would be. It
7 wouldn't be all the stuff before that. Because, again, that's the
8 27-10 example. If you were valuing that stuff, if I'm the
9 Government, and I could value it that way, I would say, well, I want
10 a value when he walks in to say, hand me the form. I want to value
11 because he couldn't have that email address unless he went to Iraq.
12 So let's value the cost of the plane flight to get him over to Iraq,
13 in order to then go up and say, I need an email address. That's why
14 the cost of production in all the 641 cases are the cost of
15 production of that record. It's not all this far removed example.
16 The government couldn't give any case law to support that and the
17 Court correctly said you weren't going to consider that type of
18 evidence.

19 So now the value of a copy. Defense's position is that
20 what was taken in this instance was not the database, was not the
21 original record but in fact, was a copy of those records.
22 Understanding that the Court indicates, at least from the Defense's
23 understanding of the ruling, that when it comes to digital evidence

1 there's really no difference between original and copy. The Defense
2 though maintains that, if I had, just because digital it shouldn't
3 matter. If I had a picture of something in front of me, like a
4 photograph, and I took a photograph of it, that photograph didn't
5 exist until I took a photograph. Clearly, that photograph is a copy.
6 And so in this instance for each of these databases the items that
7 PFC Manning took did not exist until he created them. But it's
8 clearly a copy of the original. And there's been no evidence of
9 value for any of the databases. And the evidence that you would
10 expect to see here would be then how long -- we can show from the
11 computer forensics, how long it took him to create the copy. So
12 then, you might take his pay at the time, E3 or E4, he created and
13 value the amount of time it took him to create it, if they could show
14 the CD that he used to burn the information down on was the
15 Government's CD then cost of the CD. And potentially cost of time if
16 they could value the time on the actual computer. That's how you
17 would get to the cost of production for a copy.

18 Now, when it comes to information. So now this is where
19 the Government thinks, okay, we've got it. We have been able to
20 bring Mr. Lewis in. Here's the problem, of course, the Defense is
21 maintaining we were not put on notice for information. But even if
22 the Court is going to go with information, look at what you have.
23 You have for each of these things the guess of Mr. Lewis. And what

1 do we know about Mr. Lewis? He didn't initially know why he was even
2 testifying. When the Defense went to him on multiple occasions prior
3 to his testimony, I don't know what I am coming to testify about. I
4 have no clue. He admitted on the stand that that was the case. He
5 admitted on the stand that a month before he testified he said he
6 could not put a value on classified information. He didn't know how
7 to do that and he wouldn't be able to do that. And even days before
8 his testimony, the week before he got on the stand, it was actually
9 like the Friday before he got on the stand for the following week, he
10 did not consider himself to be a valuation expert. The Court did not
11 accept him as a valuation expert. He admitted when he was on the
12 stand that he had never valued information before during his entire
13 career. Never valued any information. This was the first time that
14 he was going to opine as to the value of something.

15 And here is where the Defense argues that this Court cannot
16 use Mr. Lewis as a basis to find PFC Manning guilty of any of the 641
17 specifications for value, in that Mr. Lewis, when he got on the stand
18 and he testified, we know the documentation that he used, there was
19 the ability for him to verify the guess that he made. There was
20 ability for him, based upon the key word searches that he used, to
21 then go back to the key word document that he found and verify where
22 that information was to compare apple to apple because he used a key
23 word. I'm going to just use -- I'll use apple. Let's say the key

1 word he used was apple. Before we see this apple and it's sold to a
2 particular enemy, because it said apple for \$100.00. And I see in
3 this document now that the Government has given to me of the charged
4 documents for PFC Manning the word apple is in there. So in my mind
5 it would be worth \$100.00. Well, the problem with that is, you have
6 to go back to that original purchase and see was that apple that you
7 are talking there the same thing, not just in the general area, but
8 the same thing to where you could say with any sort of confidence,
9 that oh, yes, they would pay for that. He never did that. He had
10 the ability to do that. Didn't do that. Didn't verify his guess.
11 And then the other problem with this whole area is, when you prove
12 value of information using the thieves market, it is using a thieves
13 market where you have a willing seller, willing buyer and what all
14 the 641 cases generally support is that the thieves market then
15 creates the value of the information. But this is not a thieves
16 market. Even under the witness' own testimony this is an artificial
17 market. This is a market in which the witness admitted the person
18 could be getting money for the establishment of the relationship, not
19 the information. And again, if you went back to verify his guess, he
20 could be able at that point to say intelligently, was this an example
21 where the money paid for apple was for apple or was it, in fact, for
22 an establishment of a relationship? And this whole artificial
23 market, again, using just common sense, it's kind of the spy versus

1 spy type market of, we want to see what the enemy is interested in
2 finding out. The enemy wants to see what we are willing to sell.
3 And if you carry this to its logical conclusion, this whole market,
4 again, is artificial, nobody is disputing that when we choose to sell
5 something, it's because this is not sensitive information. We are
6 okay with the enemy having it. It's not the type of information that
7 would befall like a terrible thing to our country to sell it. We are
8 more interested in seeing what the enemy wants to know or what
9 another country wants to know from us. If you apply that logic for a
10 moment from 641, this is, again, an example of thinking short instead
11 of thinking long. You apply that logic to 641 saying, you know what,
12 Mr. Lewis looked at this information and he said, this is the same
13 type of information we would sell, because I would look at the key
14 word thing, and my guess is 10,000 here, 3,000 here, 1,000 here,
15 10,000 here, 5,000 here. Well, that might work for the 641 offenses,
16 but what does that say about the 793 offenses then? If this is the
17 type of information we would sell because this is not something we
18 are worried about that could cause damage, because we're certainly
19 not going to cut off our own nose to spite our face by selling
20 something that actually could cause damage to the United States. If
21 this is the same type of information, then how, for a 793 offense,
22 could this cause damage. Mr. Lewis, looking at this information, in
23 his 29 years of counterintelligence said the stuff he saw looked very

1 similar from a key word standpoint to the information we would sell.
2 So, if the Government wants to use him to establish value, then they
3 have to accept his baggage when it comes to, this is not the type of
4 information that could cause damage to the United States. That's the
5 fair implication from his testimony. But, again, that's thinking
6 short, not thinking long.

7 So let's look at the USF-I GAL. Chief Nixon testified
8 there are no rules on downloading .mil addresses. And then he
9 caveated that a little bit by saying well, I guess it would depend on
10 your intent but there are no rules on that. Special Agent Williamson
11 said, the DoD banner, the warning banner, did not prohibit
12 downloading. Even from a common sense standpoint the Government
13 seems to try to make a big deal out of having this information on a
14 personal computer, when we all know from a common sense standpoint,
15 you can logon to AKO, Army Knowledge Online, at your home address and
16 have the same access to email addresses. And we encourage that. We
17 get CAC readers out, we sell CAC readers. And the whole idea for
18 that is because you can work at home. You can check your Army.mil
19 address at home. So having this on a personal computer does not make
20 it wrongful. And stealing or convert. What evidence do they have of
21 that? There has been no evidence that PFC Manning did anything with
22 these emails addresses other than see if he can do it, save it on the
23 computer, the supply room computer, save it on his personal computer

1 and then delete it because that's how it gets into unallocated space.
2 If the Government's evidence -- or their argument is that he did this
3 for a nefarious bad purpose, then the only reason you would do that
4 for the stealing or convert is then apparently to give it to
5 WikiLeaks. If that were case, where is there evidence of spear
6 phishing? They try to get Nixon in to talk about spear phishing and
7 they were going to try to value email addresses based upon spear
8 phishing. Well, again, if PFC Manning actually did something with
9 these email addresses, you would have evidence from the Government of
10 Soldiers coming in going, you know what, I spear phished. I receive
11 a lot of spam. My email was hacked or whatnot. But they don't have
12 that. Again, when you look at the Tweet, it was .mil addresses, it
13 wasn't the GAL. What do we know about the GAL? What we know about
14 the GAL is these are temporary emails addresses. The Government
15 tries to basically downplay that fact, that these email address would
16 only be good for at most a year by saying, well, we try to keep the
17 same naming convention. Well, you know, that may be a fact. And if
18 that were true, and let's suggest that is true, then that's the
19 Government verifying how this information could be used to harm the
20 United States or to harm these particular Soldiers by their own
21 admission that you kept the same email addresses. There's been no
22 evidence really on every one of these emails addresses are the same.
23 What is important here is that these email addresses were temporary

1 deployed email addresses. He didn't do anything with them. If the
2 Government had evidence of him doing something with them, you would
3 expect to see that. So, there's no evidence of an intent to steal or
4 convert.

5 And then again with regards to value. The actual value of
6 the email addresses, as I said, they are temporary. And Chief
7 Rouillard's testimony really doesn't value the email addresses. It's
8 the value of the process, kind of like the 27-10 of creating it. And
9 Mr. Lewis' testimony is speculative at best. He does a kind of a
10 shot in the dark on each one of these items. It's almost as if he
11 has a dart board and he's throwing a dart against it and the only
12 number that that dart can land on is something greater than 1,000.
13 So that's all that matters. He gives a rough estimate. Of course,
14 he caveats that with this is a conservative estimate, even though
15 he's never valued information before.

16 Let's look at the DABs now. Specification 9 of Charge II.
17 Colonel Davis testified about the DABs. He basically defined those
18 as baseball cards. It wasn't his term. It was a term that was
19 carried over. But when you look at those, take a look at the charged
20 DABs. There are only five of them. The Court can read that and see
21 in that is this the type of information that could be used for the
22 prohibited purposes? What do we know about this? We know that the
23 Guantanamo Task Force reviewed looked at a lot of stuff. And the

1 DABs were such a very, very small portion of the information, which
2 supports Colonel Davis' opinion that these things really weren't
3 worth the paper they were written on. Then you look at the CSRTs,
4 the Combatant Status Review Tribunals and the Administrative Review
5 Boards that were released. You take a look at the information that's
6 in there that was declassified and you see, based upon the highlights
7 of Colonel Davis, that is a lot of information within each of these
8 DABs. The ones that there is no information highlighted is because
9 there is no CSRT or ARB to highlight it from. But, take a look at
10 the information highlighted and compare that with the other DABs, the
11 two DABs there are no highlights essentially and you see it's the
12 same type of information that was determined not to need any sort of
13 classification. Four of the five individuals have been released.
14 And when you look at, again, the un-highlighted portion and then
15 compare that with the classification review and see if, the Court
16 looking at that, can follow the logic of how this could cause damage,
17 how it could be used for prohibitive purposes. And the argument,
18 unfortunately for the Government, is these are not the type of
19 documents that should qualify under 793 purpose. These DABs were, in
20 fact, just simply background information and they were not reliable.
21 Colonel Davis talked about that, about how they were unreliable and
22 how they really weren't depended upon, not just for prosecution
23 purposes but they just weren't considered reliable.

1 Now let's look at the CIDNE-I and CIDNE-A, Specifications 5
2 and 7 of Charge II. Again, the Government throws out a lot of buzz
3 words, the TTPs, you know, our playbook, this is our playbook, how
4 the enemy knows what we know. How the enemy can guess what we are
5 going to do. Well, what are the realities of these documents?
6 Everyone talked about the fact that SIGACTs are historical documents.
7 They talk about what happened in the past, kind of the five Ws, the
8 who, what, when, where, why and how, so one H. So you look at that
9 and it talks about things in the past, but it records events that
10 obviously the enemy was involved in for the most part. These are
11 events that are observable by the enemy. And PFC Manning understood
12 that fact, when he used the SIGACTs. And the testimony that we have
13 is that the enemy adjusts their TTPs all the time and we then we
14 adjust for that. What may be true a few months ago isn't necessarily
15 true now. And that's why Mr. Hall is important. He talks about the
16 SIGACTs in and of themselves aren't what's truly valuable. It's the
17 analysis. It's what you use the information for. And that is how
18 you can create something to do predictive analysis. And the
19 Government wants to say that, well, the enemy has the same ability.
20 And take a look at Commander Aboul-Enein's discussion of AQ and AQ-AP
21 and how it generally progressed. What is clear is, if you look at
22 this stuff and you compare the classification review and you see how
23 they say this could harm the United States, you actually read the

1 documents. The harm, what they run around saying this could do
2 damage, this could do damage, is kind of like the Chicken Little
3 yelling the sky is falling. But there is -- there's no connection.
4 And the reason why there's no connection is because, again, they rely
5 upon the generalities of TTPs, of enemy would know how they did
6 damage. Common sense would say that when you have an EFP and
7 something happens, the enemy sets it off, they see you how we
8 responded. Common sense also knows that the enemy adjusts for what
9 we do and we are constantly adjusting for what they do. Common sense
10 says, the historical document, the reason why we use this is for the
11 ability of an analyst to take that information and create something
12 that separate and apart from it. And that's the knowledge that PFC
13 Manning did not possess. He was learning that, but Chief Balonek
14 said he was not very good at that. Captain Fulton said he was not
15 very good at that. Yet the Government now is trying to say this
16 gives away our playbook. If it actually gave away our playbook,
17 here's another inconvenient fact of Government. We got from the Fort
18 Leavenworth witness, who talked about the fact that their job is to
19 put out rapid adaption stuff out to the field to save lives, to
20 ensure that commanders on the battlefield get the latest and greatest
21 information to where they don't fall into any sort of traps. If this
22 CIDNE-I and CIDNE-A gave away our playbook, you better believe there
23 would be a call update. Screaming out there, hey, they know our

1 playbook. They know that when you do X, that they can do Y and they
2 will win. But there is no call update. There's no information even
3 if the Fort Leavenworth witness says, you know, independently I
4 searched just to see if there was something. And then we went back
5 to that witness on multiple occasions to say, any updates. Is Paul
6 working on anything? I don't know. And then, as he testified, his
7 boss looked and said, no, we are not doing anything. That single
8 fact should be enough to tell the Court that the amount of sky is
9 falling argument coming from here doesn't hold water. Because you
10 would see a call update. That is their sole mission. So either they
11 are totally failing the United States Army or there really wasn't
12 anything in the SIGACTs that we are concerned about.

13 Let's look at the ACIC document. The ACIC document,
14 Specification 15 of Charge II, was essentially a collection of open
15 source information. When you look at that we have the unclassified
16 version. You can read it. Essentially it's just a collection of
17 things you could find on the internet about WikiLeaks. And the key
18 thing here, is this wasn't a requested document. It wasn't something
19 that we were asking for because we identified them as a threat. This
20 is a kind of a think piece. Mrs. Glenn testified about that. They
21 have different ways of doing things. They can get a request piece
22 where they actually are responding to a concern from the field or
23 they, apparently maybe to occupy their time, come up with think

1 pieces. This was the latter. This piece was based upon a whole
2 bunch of assumptions and presumptions. But no real sources. My co-
3 counsel asked her about sources, if he knew something, he had a fact,
4 and you knew about a source, you would cite that source. Yes, we
5 would do that. That's our whole process. So take a look through the
6 classified still yet version and look at the sources. Professor
7 Benkler testified about how it was basically a poorly written piece
8 that was based upon open source without any real supporting
9 documentation for the conclusions. That in a nutshell is a lot like
10 the Government's case. It is a lot of conclusions but no supporting
11 evidence for the conclusions that they reach. I'm going to talk a
12 little bit more about the ACIC document when it comes to the 104
13 offense. Again, read that document. See what the Government says
14 could cause damage, how it could be used for prohibited purposes and
15 make that determination.

16 And with regards to I guess the next area, maybe we could
17 take a brief comfort break and then I could continue. If the Court
18 would like, we could do a lunch break and I would be happy to
19 continue.

20 MJ: Well, I'm looking -- Approximately how much longer do you
21 think the argument will go? I would prefer to take the break between
22 your argument and rebuttal. A long break.

1 CDC[MR. COOMBS]: Yeah, this probably another 40 minutes or
2 so, ma'am.

3 MJ: All right. Government, are you going to be asking for a
4 lengthy recess between the Defense argument and rebuttal?

5 TC[MAJ FEIN]: We would like a recess, Your Honor, between the
6 two.

7 MJ: All right. We're going to take a late lunch then today.
8 We will take 15 minutes and we will complete the Defense's argument.
9 Then we will take a longer recess for lunch.

10 TC[MAJ FEIN]: Yes, ma'am.

11 MJ: Court is recessed until 1230.

12 **[The court-martial recessed at 1214, 26 July 2013.]**

13 **[The court-martial was called to order at 1258, 26 July 2013.]**

14 MJ: The Court is called to order. Let the record reflect all
15 parties present when the Court last recessed are again present in
16 Court.

17 Before we continue on with the defense closing argument,
18 the Court has been advised that a member of the gallery has engaged
19 in conduct that requires a specific exclusion from the trial under
20 R.C.M. 806(b)(1). The Court determines the conduct engaged in by
21 this individual presents a potential for harm or intimidation to
22 Court participants. This individual and the conduct alleged is filed
23 as Appellant Exhibit 620 under seal. The Court understands that

1 specific exclusions must be limited in time and scope to the minimum
2 extent necessary to achieve the purpose for which exclusion is
3 ordered. Based on the conduct committed by this individual, the
4 Court finds that exclusion for the remainder of the trial is most
5 narrowly tailored exclusion to protect Court participants from harm
6 or intimidation. Mr. Coombs.

7 CDC[MR. COOMBS]: Your Honor, the next set of documents are
8 addressed in Specification 3 of Charge II. And for this it's going
9 to be very important that the Court actually pull these documents and
10 read the entire document. But also read the purpose for the creation
11 of the document, and the purpose of the discussion and see what is
12 being discussed and why it's being discussed. When you compare that
13 against the stipulations of expected testimony, as to how this could
14 cause harm, you'll see that under no stretch could this type of
15 information be used for the prohibited purposes. And it's a little
16 bit like, well, even under the Court's instructions, the idea of the
17 harm cannot be remote or fanciful or speculative or farfetched. And
18 these documents, perhaps more so than anything else, crystallize the
19 mindset of just jumping to conclusion of Fact A to Fact D as a
20 logical extension of what happens. And it really reminds me of where
21 I have seen this happen before in the past or where a story would
22 help crystallize why the Court should really look at this type of
23 information.

1 A young couple, new parents, and they bring home a child.
2 The husband works and oftentimes comes home with change in his
3 pockets. And he lays down on the couch and usually falls asleep in
4 front of the television and the change in his pockets come out and
5 fall within the couch. And the mother sees the child play near the
6 couch and is concerned that there is some loose change that has
7 fallen within the cracks of the couch. The mother assumes that loose
8 change equals a dead baby. That that baby is going to grab the
9 change, swallow it and die. And that is the conclusion that the
10 mother makes from the loose change in the couch to a dead baby.
11 Those are real people. The child now is going into high school and
12 the father still goes home with loose change in his pockets. The
13 Government's whole theory on this, and the other arguments for the
14 793 is like the loose change to a dead baby. They want the Court to
15 see the buzz words. In this case loose change is TTPs, unit
16 identifiers, DUSTWUN procedures. They want to jump all the way to
17 dead baby without really making that connection. Is it possible
18 under some some remote, farfetched speculative way? Sure it is. Is
19 it likely? No. And that's why it's so important to look at the
20 information and to just not accept the OCA's opinion.

21 Now turning to Specification 1 of Charge II, this is the
22 cause to be published. This is Article 134 offense, which the
23 Government created indicating that PFC Manning acted wrongfully and

1 wantonly when he caused to be published certain intelligence on the
2 internet. Well, first of all, he didn't have control over what would
3 be published. The best example of that, if the Court goes to PE 123,
4 again, the chats between Bradley Manning and Press Association, you
5 will see where in the first few pages PFC Manning is trying to get
6 WikiLeaks to publish the arrest of the 15 anti-apparently Iraqi
7 Government literature individuals, the people who have been arrested.
8 You'll see there where Press Association is seeking confirmation, the
9 ability to confirm the story, to confirm the fact that individuals
10 have been arrested. And PFC Manning is asking are you going to
11 publish this? And their response basically is, we'll see. That
12 shows that the control over what would be published was not within
13 PFC Manning's control. And really, when you look at the facts here
14 WikiLeaks and its other media partners, the New York Times, Guardian,
15 Der Spiegel, they decided what would be published. They decided how
16 much would be published and they decided when it would be published.
17 It wasn't PFC Manning. He didn't cause to be published. There was
18 an independent intervening decision being made and it was by the
19 media organizations, WikiLeaks and the other media organizations that
20 made that determination of what would be published. When you look at
21 wanton, and I'll talk about the legitimate journalistic organization,
22 because that has, in fact, become a part of the Government's theory
23 that it did make a difference who he gave the information to and he

1 gave to WikiLeaks. In their mind that is not a legitimate news
2 organization. I'll discuss that in greater detail with regards to
3 the Article 104 offense. But he did give it to a journalistic
4 organization and PFC Manning did not act wantonly when he did so. He
5 selected information that he believed the public showed know. And
6 the fact that he didn't act wanton is clear because of the amount of
7 access that he had and when you see when he gave certain items. If
8 he was acting wanton, he would have given them anything and
9 everything. He would have used the 2009 Most Wanted List as his
10 guiding light and we wouldn't be talking about, again, a few
11 databases. We would be talking about probably everything on SIPRNET
12 that he could download onto a CD. Also, as further proof of wanton
13 the Court has said that the evidence of the path of the intelligence
14 from PFC Manning to the enemy can provide circumstantial evidence to
15 either prove or disprove wanton.

16 In this case the Defense submits it disproves wanton. The
17 reason why, when you look at both the UBL Stip of Fact and the Adam
18 Gadahn, PE 182, and we'll just talk about Gadahn. Look at the UBL
19 Stip, read that. Read how that how that information got UBL and why.
20 With Adam Gadahn it is clear. Adam Gadahn says he's asking people to
21 go to WikiLeaks to get the information. If the enemy, and this also
22 supports the 104, but if the enemy had to be told to go to WikiLeaks,
23 clearly WikiLeaks was not a source for them. And in this case the

1 wantonness would be if WikiLeaks was, in fact, an organization that
2 provided information to the enemy. WikiLeaks is no different than
3 New York Times, no different than The Guardian, no different than Der
4 Spiegel. It's a news organization that has information. And
5 certainly the enemy can go there just like they can go to New York
6 Times. The path of this information landing in the enemy's hands was
7 because of a, when you look at this, because of Adam Gadahn saying,
8 hey, go out there and get this information. Not, hey, WikiLeaks is
9 on our favorite list. Anytime something is posted, we are the first
10 to know. If the enemy actually went to WikiLeaks on a regular basis
11 as the Government would like to suggest, they wouldn't have to be
12 told to go there to get this information.

13 So now let's talk about the 104 offense. Actual knowledge.
14 It is Defense's position that the Government has failed to prove
15 actual knowledge. They failed to prove general evil intent and at
16 most all of their evidence, what it goes to prove is that there was
17 an inadvertent, accidental, or negligent, in this case negligent
18 disclosure to the enemy. That's what their evidence proves. Their
19 evidence doesn't prove actual knowledge. And when you look at the
20 evidence that the Government really relies upon, they rely upon his
21 training as an Intel Analyst, the 35 Fox training, the PowerPoint
22 presentation that he did at AIT. Then there's an argument that, as
23 an analyst he would understand the enemy would access the internet

1 more so than a truck driver. And then finally, the ACIC document.
2 When you look at that information, first of all, the Government's
3 argument really boils down to something like this: You have PFC
4 Manning or anyone else, and the Defense would submit that a truck
5 driver for the Army would know that anything on the internet anyone
6 could access. I mean that really is what the Government is arguing,
7 that when he discloses the information to the world, he discloses it
8 to the enemy as well. But everyone would know that, if it's on the
9 internet, that it's -- if you have an internet connection, assuming
10 you don't have to log into that particular site, you can have access
11 to it. So PFC Manning and a truck driver are no different. Then you
12 have got WikiLeaks or any other media outlet. So disclosing anything
13 to any media outlet under the Government's theory that might put it
14 on the internet, you have basically where they all meet then. And
15 that's how you indirectly aide the enemy according to the Government.
16 So -- And the important thing for the Article 104 offense is, this
17 doesn't have to be classified. I know the Court has said for
18 classified there is some greater protections that are put in place.
19 But the information doesn't have to be classified. So if the
20 Government's theory is correct, then anytime a Soldier, any Soldier
21 here talks to any media outlet that might go on the internet and that
22 would involve information intelligence or whatnot, that's somehow
23 true, then you have indirectly aided the enemy. That's really what

1 the Government's argument boils down. All their information centers
2 in on basically a negligence argument. He should have known. He
3 should have known. That is essentially their argument for actual
4 knowledge. And they point to a ACIC document as the provider of
5 information for what he should have known, and also as proof that
6 WikiLeaks was not a news organization. So just looking at the
7 unclassified now portions of ACIC document, on Page 6, if the Court
8 goes there, you will see this passage where they talk the fact that
9 WikiLeaks supports the Supreme Court decision of the unauthorized
10 release of the Pentagon Papers of Daniel Ellsberg, and they talk
11 about a free and unrestrained press. And when they said they aim at
12 maximum political impact, they talk about why, transparency in
13 Government and having them accountable to the people. That is the
14 watchdog function of the press. That is what the press is designed
15 to do. Page 7 the Court will find this passage. WikiLeaks.org,
16 staff members and various authors and contributors have written
17 numerous news articles and posted the raw data and then it goes on to
18 talk about that. So the ACIC document they are saying they are
19 writing news articles. Sounds a lot like the journalists. Page 9,
20 the Court will find it talks about the foreign staff writer for
21 WikiLeaks.org, so staff writer again, news organization, Julian
22 Assange wrote several news articles and co-authored other articles.
23 And they go on to talk about a particular item. Again, even within

1 the ACIC document recognizing that WikiLeaks is a news organization,
2 that Julian Assange is one of their foreign staff writers and that
3 he's writing news articles. Page 10, one of WikiLeaks's news
4 articles also discuss the use of IEDs. And they talk about how that
5 article was written and what it intends to do to do a cost benefit
6 analysis. Again, what hard hitting news journalism would do. What
7 does the United States Government spend its money on? Are you, the
8 taxpayer, getting your money's worth. Page 10. Page 12, Julian
9 Assange has stated in his news articles involving, and then it talks
10 about the story. Again, referencing him as a journalist clearly,
11 because that's who writes news articles. Page 14, again talking
12 about WikiLeaks. And in this instance here talking about a news
13 article written by them and their staff writers. So if one were
14 reading a basic document, you would be clearly believing that
15 WikiLeaks is a news organization that writes news articles. Page 15,
16 again talking about WikiLeaks writing a news article, but important
17 here is that their news article was picked up by a variety of other
18 newspapers and wire services and other media organizations. And then
19 it talks about WikiLeaks verifying information. WikiLeaks and some
20 other news organizations did attempt to contact INJECT personally by
21 email or telephone to verify the information. Such efforts by
22 WikiLeaks to verify the information are in contravention to stated
23 policy. They believe that WikiLeaks wouldn't be doing that. Then

1 they say that was a good thing to do, that this is what you would
2 anticipate from a news organization. So reading the ACIC document
3 you see even within that they recognize WikiLeaks as a news
4 organization. Continuing for that same thing on Page 16, they say
5 that even though they had an INJECT employee that would be a credible
6 source, again WikiLeaks tried to verify, and the attempts to verify
7 the information were prudent and showed journalistic responsibility
8 to the newsworthiness for fair use of the classified document. This
9 is the ACIC document. Again, WikiLeaks, a legitimate journalistic
10 organization.

11 Now let's talk about Professor Benkler. Professor Benkler
12 got on the stand and he testified about the ACIC document. As I
13 said, his review of that indicated that it was poorly written and
14 researched. He disagreed with ACIC document. He testified that
15 WikiLeaks does, in fact, verify information before publication. And
16 one of the key facts that he's pointed out was the fact that so many
17 other organizations would love to point out when WikiLeaks published
18 something that was not true. And he said that didn't happen. Less
19 than 1 percent, I believe was his testimony, of information posted
20 ultimately was not quite accurate. And that, according to Professor
21 Benkler, was an amazing fact showing that WikiLeaks does, in fact,
22 verify its information. It doesn't just post anything and everything

1 sent to it, as the Government would suggest and as the ACIC wrongly
2 concluded.

3 Then what else do we know about WikiLeaks? They received
4 several awards recognizing their journalistic endeavors. The 2008
5 Index on Censorship Award; and the 2009 Amnesty International New
6 Media Award. This is a journalistic organization clearly and the
7 Government, of course, ignores those facts. Major Fein characterized
8 the quality of Professor Benkler's work yesterday suggesting that
9 Professor Benkler's work was not good. Well, first of all, if the
10 characterization of Professor Benkler's work isn't good, how does
11 that compare to Mr. Lewis, the person that the Government relied upon
12 solely for valuation of information, a person who on his own
13 testimony said he did 70 percent of his work the week before he
14 testified. Not, you know, months before his testimony. 70 percent
15 of his opinion on information was developed the week before he
16 testified. Professor Benkler clearly is an expert, and to impugn his
17 work ignores the clear facts from his testimony. And the only way
18 you do that, and the reason why you do that is because you are trying
19 to say WikiLeaks is not a legitimate news organization, because that
20 wouldn't fit within our story. We need it to be a nefarious
21 organization. We need it to be hackers. We need to argue that PFC
22 Manning sought out fellow like-minded hackers and gave the
23 information to an anti-Government, anti-United States organization

1 and he did that because he had no loyalty to our country, no loyalty
2 to the flag. He did that because he was an enemy himself. That's
3 the argument that the Government has to present in order to make
4 their evidence make any sense. But it doesn't stand up to any sort
5 of analysis. And what do we know about the ACIC document? The ACIC
6 document didn't even know if the enemy went to WikiLeaks. It has a
7 question mark on whether or not foreign intelligence services and
8 enemy would use WikiLeaks. Intelligence gap. That's something you
9 never heard from Major Fein. He talked about the presumption, the
10 presuming, but he never talked about the intelligence gap. The
11 reason why he didn't talk about that in the ACIC document is because
12 they identified whether or not the enemy went there was an
13 intelligence gap, something we do not know. All the unit witnesses
14 testified about what an intelligence gap is. It's something that we
15 don't know, we need more information on to confirm. It's a gap in
16 our intelligence. Even Ms. Glenn finally got around to saying, yes,
17 it's something we don't know. And if the United States Army and ACIC
18 after doing all their research, and we know from Ms. Glenn when they
19 do something, they reach out to everybody to find any source to
20 support their documentation. They have access to everything. And
21 that entire research still listed this as an intelligence gap. So,
22 if the Army doesn't know, didn't know that the enemy went to
23 WikiLeaks, how would PFC Manning be held to have actual knowledge?

1 We also -- He didn't talk about the assumptions that were
2 made. They made several assumptions with an ACIC document. And we
3 all know from the unit witnesses that assumptions, again, are stuff
4 that we do not know. We are having to make an assumption. And then
5 from that assumption we can say X might be true or Y might be true.
6 But, assumptions are again things we don't know. We know from the
7 unit witnesses there was actually no training on what particular
8 websites the enemy might have gone to. That was nowhere to be found
9 in the AIT training. That was nowhere to be found in his training at
10 Fort Drum. That was nowhere to be found in his training when he got
11 to Iraq. And then the Government argues the presumption, it must be
12 presumed that the enemy would go to any source on the internet to
13 find information. This is a negligence argument. Similar argument
14 might be, if I leave my wallet outside of the courtroom with a \$20.00
15 bill hanging out of it, it must be presumed that someone might take
16 it. That's not a good idea to leave it there. But just as likely,
17 someone might pick it up and hand it back to me. That might go to my
18 negligence but that doesn't go to my actual knowledge. In this
19 instance, giving something to a legitimate news organization is,
20 unfortunately or fortunately, depending upon what side the fence you
21 are on, the way we hold our Government accountable. That's not like
22 leaving the wallet outside. That's giving information to a
23 legitimate news organization in order to hold the Government

1 accountable. The enemy may go to that. But then the whole idea of
2 Article 104 of giving intelligence to the enemy is the idea you are
3 giving something that's helpful to the enemy. And that whole idea,
4 and all the cases that kind of support that, we know you have the
5 directly giving information to the enemy where you are going to the
6 enemy saying here, and you get maybe money or some sort of benefit.
7 Indirectly the way that makes sense, in the one Civil War case the
8 Government can cite of giving information through a news print media
9 in order to show troop locations, that whole idea, that was done in a
10 Secret way, is to give the information to the enemy so that the enemy
11 has it and can take advantage of it. That is where it makes sense of
12 some helpful to the enemy. Giving the information to the world, to
13 the public, to inform the public, does not give intelligence to the
14 enemy. What it does, is it says this is the information. If it were
15 helpful to the enemy, and we thought it were, again, you would expect
16 Hall to do something, to do a rapid adaption, but just take it to a
17 very logical common sense understanding. If it were true that we
18 had, let's say in a ground war and we are going to go into a
19 particular area at 0930 and we are going in this route of approach.
20 If that were the evidence, and that were released, the only way that
21 would help the enemy is if we didn't know that the enemy had it. The
22 reason why you think about that, if somebody gave that to the enemy,
23 the United States Army is going into a particular town at 0930 from

1 this direction, the enemy can take advantage of that, if we do not
2 know that they know that. If we know they know that they know that,
3 because it's been blasted out for the world to know, common sense
4 would say that we are not going into that town at 0930 now, because
5 we know the enemy knows that. We are not going to go from that
6 route. That's how you give intelligence to the enemy indirectly that
7 actually provides information to the enemy. That's not this case.

8 All the forensics in this case prove that Manning wanted
9 this information to get out to the public. He never discussed the
10 enemy, or wanting to get information to the enemy. The one quote
11 from the Lamo chat that Major Fein took out of context of, can make
12 bank for China or whatnot, look at that quote. That is Adrian Lamo
13 asking PFC Manning, what is your end game? And PFC Manning saying, I
14 want to give this information out, I want to make a difference. And
15 he says to PFC Manning, or a spy, suggesting that PFC Manning could
16 be a spy. And PFC Manning says, no, I could never be a spy. A spy
17 doesn't post everything for the world to see. And then it's Adrian
18 Lamo saying, you could have sold this to China and made bank. Why
19 don't you sell it? It's not PFC Manning saying I'm going to sell it
20 to make bank. All the forensics prove that he had a good motive.
21 His motive was to spark reforms, to spark change, to make a
22 difference. He did not have an evil -- a general evil intent.

1 And then you look at the circumstantial evidence again for
2 the 104 offense. The evidence of the path of the intelligence to the
3 enemy can be circumstantial evidence to disprove actual knowledge.
4 And the way this gets to the enemy, and we look at Adam Gadahn, but
5 really look at UBL, the stipulation of fact of why they went to that
6 information, what sparked their determination? Adam Gadahn again
7 talking about trying to get people to go there in order to get the
8 information. That is circumstantial evidence that PFC Manning did
9 not have actual knowledge. Even the enemy had to be told itself to
10 go to this website. And further proof of that, the Government uses
11 his training but his training is important. He's a junior analyst.
12 He's still learning how to connect all the dots. And several
13 witnesses, Sergeant First Class Anica, Captain Fulton, Chief Balonek,
14 Chief Hack, and Captain Lim, all talked about the fact that he was a
15 junior analyst. He was good at data mining. He was bad at
16 connecting the dots. He was good at putting things on a chart and
17 using DCGS-A programs, he was good at computers but he was bad at
18 creating an analytical piece. And he was bad at that because of his
19 limited experience. He was bad at that because he was a junior
20 analyst. And he's bad at that because he didn't have very much
21 experience in garrison. Sergeant First Anica, and Captain Lim talked
22 about that; how very different the role of an analyst is in garrison
23 as opposed to being deployed.

1 So you get back to what's the truth. What is the actual
2 ground truth based upon the evidence in this case? And that's
3 obviously a very important decision because that will color the
4 outcome in this case. Is PFC Manning somebody who is a traitor, had
5 no loyalty to this country or the flag and wanted to systematically
6 harvest and download as much information as possible for his true
7 employer, WikiLeaks? Is that what the evidence shows? Or is he a
8 young, naive with good intentions Soldier who had human life in his
9 humanist beliefs center to his decisions, whose sole purpose was,
10 maybe I just can make a difference, maybe this can make a change.
11 Which side of the version is the truth? And we would ask the Court,
12 when you look at the truth, look at what he says and the time again
13 when he has nobody that he believes is watching him. The Government
14 made their comment of he had time to make up his story. He didn't
15 make up any story. When he talked to Lauren McNamara, when he talked
16 to Adrian Lamo, that was PFC Manning. When he spoke to Press
17 Association, that was PFC Manning. Are there some things in there
18 that don't put him in the best of lights? Certainly. And you can
19 cherry pick those and I'm sure the Government will in its rebuttal of
20 trying then to cherry pick that and make us spin on with that. But
21 when you read it in its context, that's why it's important to read
22 everything in context, when you read it in its context, it's clear

1 what the truth is in this case. And in this instance we are hoping
2 that the Court sees that as well. Thank you.

3 [Clapping began in the gallery.]

4 MJ: All right. That's enough. Members of the Gallery, this is
5 a Court of Law. I would ask, please, that you keep your reaction
6 muted. Major Fein, how much time do you need? If we start at 1500,
7 does that work for you?

8 TC[MAJ FEIN]: Yes, ma'am.

9 MJ: Are you sure? Is that enough time for you to prepare?

10 TC[MAJ FEIN]: Yes, ma'am.

11 MJ: All right. Court is in recess then until 1500.

12 [The court-martial recessed at 1329, 26 July 2013.]

13 [The court-martial was called to order at 1536, 26 July 2013.]

14 MJ: Court is called to order. Let the record reflect all
15 parties present when the Court last recessed are again present in
16 court. Before we proceed, I do want to clear up one thing on the
17 record. Earlier in the day, I made an order specifically excluding
18 an individual. I neglected to mention that before making that order,
19 I showed counsel for both sides the reason I made that order and I
20 neglected to see if either side had any objection to that.

21 TC[MAJ FEIN]: The United States does not object, Your Honor.

22 CDC[MR. COOMBS]: No, Your Honor.

1 MJ: All right. Thank you. Major Fein, is the government --
2 well, first of all, is there anything else we need to address before
3 we proceed to the government's rebuttal argument?

4 CDC[MR. COOMBS]: No, Your Honor.

5 TC[MAJ FEIN]: No, ma'am.

6 MJ: All right. Government?

7 TC[MAJ FEIN]: Your Honor, the focus in your deliberations
8 should be on the evidence, the testimony you heard and the
9 documentary and -- well, essentially all documentary evidence
10 otherwise it's in digital form from the physical evidence to review.
11 Prior to going into deliberations, Your Honor, the United States
12 would like to offer a few key dates, some key dates to put all of the
13 evidence and the testimony in its proper place within a timeline.
14 First, Your Honor, PFC Manning arrived in Iraq on or about 28 October
15 2009. If there is ever a question, Your Honor, during your
16 deliberations on when Private First Class Manning was in Iraq and was
17 not, was at FOB Hammer and was not, Prosecution Exhibit 22. Those
18 are the JAMMS records, the records that a Soldier -- that accounts
19 for when a Soldier uses their ID card to go to the mess hall, so on
20 and so forth.

21 Next, Your Honor, mid-November 2009, that's the testimony
22 we heard of when PFC Manning started working in the SCIF without
23 someone on his left and right. It's the RIP/TOA 3rd Brigade, 82nd.

1 26 November 2009, Your Honor, that's Thanksgiving. 26 November 2009.
2 That's when Private First Class Manning told Adrian Lamo he started
3 helping WikiLeaks, around Thanksgiving of 2009. 28 November 2009,
4 Your Honor, that's the first search for an item that's on the
5 WikiLeaks most wanted list from Prosecution Exhibit 81. 29 November
6 2009, that's the date that the README. -- excuse me, the contact list
7 -- the contact information was created on his external hard drive for
8 WikiLeaks. Then, Your Honor, 1 December 2009. The first search for
9 WikiLeaks on SIPRNET, at least on Intelink that's recorded. Again,
10 Prosecution Exhibit 81. Your Honor, the next key date is 15 December
11 2009. As you've already heard today from Mr. Coombs, the date that
12 the BE22PAX.zip file was found on Jason Katz' computer on the date of
13 its creation. Another key date, Your Honor, from the defense 24
14 December 2009. Christmas Eve of 2009. You have before you -- you'll
15 have when you deliberate the significant activity report pulled by
16 Special Agent Shaver on behalf of the defense. That's a key date,
17 Your Honor. The reason that's a key date because if you look at
18 Prosecution Exhibit 81, the Intelink log, you'll find that within 30
19 minutes of a shift change at 2200 that day, Private First Class
20 Manning was not searching for anything related to that SigAct or any
21 other item that might have caused him to have a crisis of conscious.
22 What you'll find, Your Honor, is that he was conducting searches for
23 information relating to GTMO and detainees from the WikiLeaks most

1 wanted list on 24 December 2009, and that's at Lines 173 through 178
2 of Prosecution Exhibit 81. Those same searches or similar searches
3 since 1 December. Then, Your Honor, early January 2010 ----

4 MJ: That was Line 17 through?

5 TC[MAJ FEIN]: I'm sorry, ma'am. 173 through 178.

6 MJ: Okay.

7 TC[MAJ FEIN]: Of PE 81. Then, Your Honor, we have early
8 January 2010. Early January 2010 is when Private First Class Manning
9 stole the CIDNE-I -- the SIGACTs portions of the CIDNE-I and CIDNE-A
10 databases. 14 February 2010. 14 February is when Private First
11 Class Manning returned from R&R. And then 15 February 2010, when the
12 first evidence of a CD being burned on his SIPRNET computer and
13 inserted into his personal MAC. 15 February 2010, and on that, Your
14 Honor, you'll see the Apache video, the SigAct designator for the
15 Apache video, Reykjavik13 and other information relating to WikiLeaks
16 and to Iceland.

17 Your Honor, 18 February 2010, that is the date that
18 WikiLeaks released the Reykjavik13 cable.

19 MJ: You say February 2010?

20 TC[MAJ FEIN]: Yes, ma'am. 18 February ----

21 MJ: 18 February.

22 TC[MAJ FEIN]: ---- 2010. So 3 days after burning onto a CD and
23 that is when Private First Class Manning, at least then, would have

1 seen the direct repercussions of his actions or, in his own words, of
2 an ambassador potentially being fired from the Longwood chess.

3 Your Honor, 27 February 2010. 27 February 2010, is the
4 incident where the Iraqi Police arrested several individuals at a
5 printing press. That is the date of the evidence the defense
6 elicited or attempted to elicit from Sergeant Sadtler. Now, you
7 heard, Your Honor, from Sergeant Sadtler, and that's the only
8 evidence you heard of Private First Class Manning's reaction and
9 that's from 27 February 2010. Now, he didn't remember the exact
10 date, but that is the date of the SigAct that you have before you.
11 And in his chats, Your Honor, PFC Manning calls that event "the thing
12 that got me the most that made me rethink the world more than
13 anything." He said that with Lamo. That event occurred on 27
14 February 2010.

15 And then, Your Honor, early March 2010, are the chats
16 between PFC Manning and Julian Assange. Those are the key dates,
17 Your Honor. Now, there's disclosures that the Court has taken
18 judicial notice of and others, but those are the key dates when it
19 comes to motive, when it comes to intent and, ultimately, in proving
20 these offenses.

21 Before continuing, Your Honor, just to, I guess, clarify
22 some potential inaccuracies. First, Adam Gadahn is the enemy who
23 also helps the enemy. There is a difference between wiping,

1 forensically wiping a computer and reimaging a computer. You heard
2 testimony from Special Agent Shaver and Mr. Johnson that wiping or
3 clearing, forensically, your computer is wiping all of the free
4 space. Everything that has been deleted that's still on the computer
5 is making it 1s and 0s, untraceable. Reimaging a computer, Your
6 Honor, you heard that in this court-martial from Mr. Milliman and
7 others talking about the DCGS-A computers and that's because when the
8 computer were malfunctioning, Mr. Milliman testified that he took the
9 hard drive out of the computers and reimaged them. He made a copy of
10 the hard drive as it sat in order to allow individuals to continue
11 working and then he would use a CD to take information on the desktop
12 or in the My Documents of the old computer and copy it over. That's
13 where you also heard of any backing up that occurred in the T-SCIF.
14 You also heard, Your Honor, that when a computer is reimaged, the
15 only information that's contained on it is what would have ever been
16 on the copy from before. So when Mr. Milliman reimaged it from a
17 baseline image, none of the old material would have come on that
18 image.

19 MJ: Say that one more time.

20 TC[MAJ FEIN]: Yes, ma'am. You heard from Mr. Milliman that
21 when he did the reimaging, Your Honor, he copied from the baseline
22 DCGS-A image, the image he received from Camp Slayer. So what that
23 means, Your Honor, is that the old hard drive that's pulled out, the

1 one that is being replaced, that information is essentially lost
2 except for what Mr. Milliman copied over because the new image came
3 from Camp Slayer which is also why the Court has no evidence before
4 it and the investigators could find no evidence of any activity on
5 the .22 or .40 hard drives prior to them being reimaged in March of
6 2010.

7 Now, Your Honor, I'd like to focus on the Gharani airstrike
8 video in the Farah investigation, although the two terms are
9 synonymous here. Two different types -- ultimately, Specification 11
10 and 10 of Charge II. In the Defense's presentation of evidence, they
11 seem to discount one factor and that is that Private First Class
12 Manning admitted to the Gharani -- releasing the entire Gharani
13 airstrike video in the investigation. Defense claims there's no link
14 between Jason Katz and PFC Manning except for two major factors.
15 One, WikiLeaks. WikiLeaks is a link between Jason Katz and PFC
16 Manning. Private First Class Manning used WikiLeaks as his platform
17 to release information. Jason Katz had that video, the same video
18 that they Tweet about less than 1 month later that they needed help
19 decrypting. And you heard through stipulations of expected testimony
20 from the B&L employees that password "cracking" software was included
21 or was installed on Jason Katz's computer and from Special Agent
22 Shaver.

1 Also, the second thing that is a link between the two is
2 the actual video itself, a forensic copy of what was on the CENTCOM
3 server. There's also no evidence, Your Honor, that Jason Katz even
4 had access to SIPRNET. This is a fanciful conjecture that Jason Katz
5 is the one who compromised the video, especially if PFC Manning
6 admitted to it.

7 MJ: Now, let me ask you a question on this.

8 TC[MAJ FEIN]: Yes, ma'am.

9 MJ: So the government is going forward on the theory that this
10 -- or on the charged dates in Specification 11. Is that correct?

11 TC[MAJ FEIN]: Yes, ma'am.

12 MJ: Okay. Go ahead.

13 TC[MAJ FEIN]: Your Honor, Bates number 00124349. 124349.

14 MJ: Say that one more time.

15 TC[MAJ FEIN]: Yes, ma'am. Actually, to be easier, Your Honor,
16 Defense Exhibit Juliet, Page 67.

17 MJ: That's more in my lane.

18 TC[MAJ FEIN]: Yes, ma'am. Defense Exhibit Juliet, Page 67.

19 Defense Exhibit Juliet is the forensic report for Private First Class
20 Manning's personal Macintosh computer. Page 67 of that report, Your
21 Honor, created by Mr. Johnson, shows in a screen shot from EnCase the
22 uploads through the WikiLeaks submission system to WikiLeaks. At
23 least the screen shot shows four different files and four out of five

1 as the text on that document shows and those files are called
2 Farah.part1.rar.nc. I'm just reading off the actual exhibit, Your
3 Honor. It says year 2010, month 4, date 11 and then later down the
4 road it says date 12. What this shows, Your Honor, is that Private
5 First Class Manning transmitted the actual Farah investigation that
6 he admitted to Adrian Lamo that he compromised in the same admission
7 of the video on 11 and 12 April 2010. Forensic evidence shows that
8 date. Yet, Your Honor, the Defense wants you to believe that PFC
9 Manning looked at the Gharani airstrike video, the Farah video, on 17
10 April 2010, because of the TGT1.wmv file, that same file that was
11 found in that NT user.dat file which means that it was opened, it was
12 not encrypted and that, Your Honor, happened on 17 April. So if
13 Private First Class Manning had already transmitted everything he
14 took from the CENTCOM share folder, at least that he downloaded on 10
15 April 2010, on 11 and 12 April and then found on the T-drive the
16 share folder or at least viewed a video called TGT1.wmv and that was
17 5 days after comprising the remaining portion of the Farah
18 investigation.

19 Your Honor, admission of the compromise of the video and
20 upload of the investigation less the video on 11 and 12 April and no
21 evidence, no forensic evidence, Your Honor, of the video being
22 accessed by PFC Manning between 1 December 2009 and onward. The
23 evidence, Your Honor, is that he took the video before 1 December

1 2009. He transferred it to WikiLeaks and it ultimately ended up on
2 Jason Katz's computer before 15 December and Jason Katz had it on his
3 computer. That is the exact video that PFC Manning accessed or
4 admitted to because it has the same hash value that was found on the
5 CENTCOM portal and he did admit he had been helping WikiLeaks since
6 Thanksgiving of 2009.

7 Next, Your Honor, I would like to discuss Mr. Lewis, Mr.
8 Danny Lewis's opinion, not guess, and why it should be relied upon.
9 The Defense has argue that Mr. Lewis said he was not experienced in
10 valuing information, but Mr. Lewis testified that, although he's not
11 an expert in valuing a random document, he was an expert in what the
12 enemy -- excuse me, Your Honor, the foreign intelligence services
13 paid for U.S. government information, specifically classified
14 information, and what types of information based off those countries,
15 based off his experience. So what was his experience, Your Honor?
16 He testified that in nearly 30 years of experience in the counter
17 intelligence field. Mr. Lewis is one of the top 10 most experienced
18 counter intelligence professionals in the Department of Defense and
19 the most senior one in the DIA. He investigated espionage cases at
20 Department of the Army national level organizations as a Soldier and
21 as a civilian for over 15 years as an actual investigator. He had
22 won the DoD Investigator of the Year award twice, for two different
23 cases involving the compromise of classified information, George

1 Trofimoff and Sergeant Boone to foreign intelligence services and
2 what those agencies paid for that information. He's taught courses
3 on espionage investigations for over 20 years and he has supervised
4 espionage investigations and operations as a Director of the Counter
5 Espionage Section at DIA for the last many years. He's relied upon
6 to brief the senior leader of the Department of Defense on active
7 operations and, as he testified, most all those operations deal with
8 the exchange of money for information. Mr. Lewis's expertise is
9 trusted by those senior government officials and in reaching those
10 determinations, Your Honor, Mr. Lewis offered a conservative
11 valuation, always on the low side, describing how blocks of
12 information, his terms, blocks of information are more valuable than
13 even individual pieces of information. He also stated that based on
14 his experience that he could definitely evaluate how much an
15 adversary would pay for specific types of information. So although
16 he can't necessarily testify about the four corners of a document, he
17 could look at a document, look at the contents of the document and
18 say how much an organization would pay for that type of information.
19 Your Honor, that is the thieves' market. The thieves' is not an open
20 market where two individuals necessarily negotiate. It's a market
21 based off of theft. It's a market based off a seller willing to buy
22 something that should not be sold. He also testified that the type
23 of information that they typically used in these operations are real

1 information and there's different sensitivities involved in that.
2 Finally, Your Honor, in reference to Mr. Lewis's way of evaluating,
3 even Private First Class Manning recognizes in his chats with Adrian
4 Lambo talking about how he could have made bank if he chose to sell it
5 to, he said, Russia and China.

6 Your Honor, for the 793 offenses within Charge II, the
7 Court's instructions define reason to believe and show that the
8 United States has to prove that PFC Manning had the reason to believe
9 that he communicated -- the information he communicated could be used
10 to injure the United States for the advantage of a foreign nation, so
11 whether he had the reason to believe that. Your Honor, testimony
12 from the different subject matter experts from each organization
13 based off the 793 and then also the 1030 offense explains exactly
14 what type of information that is, that he would have reason to
15 believe could cause harm. The OCAs testified about why the
16 information could cause harm. Defense Exhibit O, Oscar. Read the
17 Admiral Donegan memo. Your Honor, that memo is quite important in
18 this case. As Defense pointed out, it's a memo that shows that there
19 are varying opinions on classification even within the United States
20 government. What that memo exemplifies is that not at all times does
21 an OCA say what we presume is classified is actually classified and
22 that memo signed by the 32 Head Operations officer for USCENTCOM said
23 that that video did not contain equities that rose to the level of

1 classified information. Your Honor, that is directly in sync with
2 the testimony of CW5 John LaRue. Chief LaRue testified that there
3 are types of information in the Apache video that we purposely
4 retained and do not make publicly available the TTPs, how our pilots
5 engage targets, how they identify targets, the laser technology, the
6 heads-up displays. And that pilots are trained that you keep it on
7 SIPRNET because they are not qualified to make the determination
8 whether it's classified or not. So the system works and has worked
9 in this case. It is sensitive. It is closely held. It was on
10 SIPRNET. It was not publicly available. The video was not publicly
11 available. And an OCA reviewed it and made a determination it was
12 not classified. The testimony of the subject matter experts in the
13 OCAs aren't based off mere buzz words. They're based off doctrinal
14 terms, doctrinal terms that are in every classification guide and are
15 taught all the way down to the most junior Soldier, especially Intel
16 Analysts.

17 TTPs, how we fight our battles. That's the type of
18 information and the United States agrees with the Defense, Your
19 Honor. The Court should read every single charge document,
20 especially because it's in evidence, look at them, look at the words
21 on the page and see exactly what is in those documents that Private
22 First Class Manning compromised. When it comes to the SIGACTs, Your
23 Honor, these are -- these are SIGACTs that he used on a daily basis.

1 It's not just mere information that is available to the public. It
2 is the exact fire team, squad, platoon, company, battalion, brigade
3 and division, where they were, what they're doing, how they did it.
4 Yes, there was an IED, but the enemy doesn't know the internal
5 operations of that squad and that fire team on how they secured the
6 objective, how they evacuated their own. And only -- the only
7 individual, Your Honor, that would have known at least on the ground
8 at that moment would have been, let's say, the IED trigger puller who
9 survived. Yes, he would have had eyes on that squad and seen what
10 they did. He wouldn't have seen what happened behind the HUMVEE, let
11 alone all of his fellow cohorts wouldn't have known unless they were
12 there. The village next to him wouldn't have known what we did, let
13 alone in another theater of operations, let alone the entire world
14 that includes al-Qaeda and al-Qaeda-Arabian Peninsula that knows how
15 we fight our battles in Iraq and Afghanistan. That information, Your
16 Honor, Private First Class Manning was trained as valuable. It's the
17 type of information that the enemy seeks, they want worldwide and
18 that was given to them in searchable format through the SIGACTs and
19 Department of State information.

20 Your Honor, the Defense seems to argue that just because
21 there is some information in a classified or sensitive document, that
22 means it's not closely held because some information in there. For
23 every specification charged under 18 U.S.C. 793 and the 1030 offense,

1 there's no evidence either from stipulations of testimony or live
2 witnesses, Colonel Davis, Mr. Hall, Mr. Daniel, Mr. Finkel's book
3 that shows that all of the information contained within those
4 documents was publicly available. The Apache video was a video. It
5 had visual information that was sensitive. Your Honor, specifically,
6 although I know I just spoke something about the CIDNE-I and CIDNE-A
7 SIGACTs, the Defense brought up the CALL witness from the Center of
8 Army Lessons Learned. Your Honor, when you review Defense Exhibit
9 Alpha in your deliberations and you read exactly what that witness
10 would have said if they testified, you'll see, Your Honor, that based
11 off questions from the defense multiple times, it was asking if CALL
12 had done any lessons learned based off the disclosures to WikiLeaks.
13 The focus was disclosures to WikiLeaks. The questions weren't has
14 the Army changed its TTPs based off of battlefield disclosures. It
15 wasn't has -- has the Department of Defense or the Department of
16 State changed what they do. It was has the CALL -- has the Center of
17 Army Lessons Learned done a comprehensive review of the information
18 or specifically how we handle classified information. That was one
19 of the questions, has CALL actually looked at how we handle
20 classified information and has there been any changes, or any
21 critical Army TTPs or vulnerabilities based off of the disclosure?
22 And, yes, the Center of Army Lessons Learned hadn't done that, but
23 that is not evidence, Your Honor, that there was no effect or useful

1 effect for the enemy. Excuse me, Your Honor, because this is not
2 about the actual effect, if there was or was not some. The testimony
3 from the CALL witness, Your Honor, has no bearing on whether the
4 SIGACTs were useful to the enemy. And, most importantly, Your Honor,
5 Private First Class Manning's training is the most insightful there.
6 He was trained on their usefulness and how to protect them.

7 Your Honor, just to correct one thing I just I said, I said
8 Defense Exhibit Alpha. It's actually, I think, Bravo. Defense
9 Exhibit Bravo.

10 Next, Your Honor, the ACIC document. Your Honor, the ACIC
11 document was produced by an organization whose specific purpose is to
12 identify potential threats and threats within the United States Army
13 and with that exact document it was the cyber threats. That document
14 was not, nor was there any testimony from a U.S. government employee
15 based off all open source information. There is a table of contents
16 with the classified version and a Court can see even by reviewing it
17 it was sourced from across the intelligence community. Professor
18 Benkler testified that, in his opinion, it was based off open source
19 information, but that document was part of an official government
20 process from an organization that focused on these types of threats.

21 In reference to the detainee assessments, Your Honor,
22 Colonel Davis did testify that those detainee assessments had no
23 useful purpose for him, the Chief Prosecutor. But he did recognize

1 that they were used in no pros, non-prosecution decisions. They were
2 the cover sheets that he relied on in order to determine whether he
3 wanted to forward a packet up, sign off on it or not. He found no
4 useful version because, just like any other attorney he relies on the
5 evidence, the evidence in this case or in his cases to make his
6 decisions.

7 Next, Your Honor, AR 25-2 in the 1030 violation, exceeding
8 authorized access. Your Honor, the United States would argue that in
9 your deliberations you should not be distracted from the different
10 red herrings the defense appears to be throwing out about the
11 programs and the access, specifically on the DCGS-A computer. The
12 bottom line, Your Honor, is that everyone who testified in this
13 court-martial said they had to go to Mr. Milliman, the DCGS-A
14 contractor, in order to get approval to make changes, introduce
15 software or they had problems and Mr. Milliman testified he never
16 heard of Wget before this which leads to only one conclusion, Private
17 First Class Manning never went to Mr. Milliman to ask if he could
18 install -- excuse me, copy over a copy of Wget. Yes, Your Honor,
19 there is evidence that individuals copied programs onto the computer,
20 but you heard from Mr. Milliman, because he was one FSR or FSE
21 contractor for multiple posts or multiple FOBs. When he was at
22 another FOB, he would get calls and say, yes, you can do that and he
23 would give a VOCO for that. And you also did not hear any evidence,

1 Your Honor, of any unauthorized programs being installed by anyone.
2 mIRC Chat was authorized. Mr. Kitts testified that mIRC Chat was not
3 necessarily in the baseline, but he also testified that he remembered
4 a technical bulletin that went from the DCGS-A program management
5 office out to all the contractors. Mr. Milliman corroborated that by
6 saying he knew that he was authorized to install mIRC Chat. And
7 regardless of that, Your Honor, from the Soldiers' point of view, if
8 Mr. Milliman installed it, it was authorized. It was his
9 responsibility to make that determination and that did not occur from
10 Wget.

11 Also, Your Honor, you heard testimony about mIRC Chat. You
12 heard testimony, although not programs, about videos and music and
13 games. What you heard, Your Honor, is that there were purposes for
14 those, legitimate purposes that the command was tracking. mIRC Chat
15 was used to communicate up, down, left and right. Colonel Miller
16 testified about the benefits of mIRC Chat and also testified about,
17 although he saw it in his periphery, why he didn't stop, why he
18 didn't stop video games, why he didn't stop music and videos for
19 being allowed on SIPRNET. Because he saw that if the Soldiers sat on
20 the FOB all day and did not leave, that it gave him that break in
21 place in order to relax and continue working. You also did not or
22 you did hear testimony that the prohibition was on introduction and
23 although Captain Cherepko said they started deleting video games,

1 music and videos from their share drive, it kept populating on. But
2 you heard no evidence of anyone introducing the material. You did
3 hear evidence that it was scattered throughout the network and he
4 kept trying to find where it was and you also heard testimony from
5 Captain Cherepko on why, why he deleted it.

6 MJ: Let me just stop you for a minute.

7 TC[MAJ FEIN]: Yes, ma'am.

8 MJ: I'm confused. If it went away and came back on, how was it
9 not installed?

10 TC[MAJ FEIN]: Well, unfortunately, ma'am, you didn't hear
11 evidence on anyone moving it onto their computer. The defense wants
12 you to infer that that's how it happened. Yes, Your Honor, that is a
13 possibility. There was no physical limitation. What Captain
14 Cherepko testified about was that the 3rd Brigade, 82nd had a lot of
15 different versions and different folders and that it is possible for
16 individuals to start moving them over to different folders. He
17 wasn't able to find them all, Your Honor. But again, Your Honor, it
18 goes to the red herring. You heard from the brigade commander that
19 talked about why he did not see an issue with those. He did talk
20 about at what point he did eventually say let's remove this material.
21 It wasn't because it violated the Army regulation because it didn't.
22 It wasn't because it was impacting their mission, the Soldiers
23 sitting in front of computers. It was because it was impacting his

1 connectivity and when Captain Cherekko, as he testified started
2 deleting the material it was because they were having bandwidth and
3 other issues with the servers which is why they started deleting it
4 and put out messages for all the sections to not allow that
5 information. None of that, Your Honor, had to do with a Soldier
6 taking a program that they downloaded off the Internet, a program no
7 one else had heard about, moving it over to their SIPR computer,
8 dragging it over, figuring out how to program that program, how to
9 make that program do what they want and run that program from a SIPR
10 computer. Wget is not comparable to those types of programs. It is
11 free ware as I just mentioned that you download off the NIPRNET.
12 Special Agent Shaver and Chief Rouillard gave in-depth explanations
13 about Wget, that there's no legitimate purpose of having Wget on a
14 computer except for through -- for law enforcement purposes dealing
15 with Internet crimes or doing penetration testing acting as the enemy
16 of the United States.

17 Private First Class Manning knew he was not allowed to add
18 programs to the computer. Mr. Madaras testified that PFC Manning was
19 at DCGS training before they deployed and were told you have to go
20 near FSC before you do anything on your computer. If that wasn't
21 enough, Your Honor, you heard the testimony that within a month of
22 the brigade being there Mr. Milliman sat everyone down. He said this
23 is common because when brigades come in, the S-6 sections believe

1 they own by that, via administrators, control what programs are or
2 are not installed on all of the computers including DCGS-A and he
3 said that pattern was always followed, when the unit showed up there
4 was always a misunderstanding, he always clarified it and then it
5 didn't happen again. And that is what you heard. And how did that
6 come up, Your Honor? Earlier, you heard the defense talk about that
7 even the S-6 section was password cracking. Well, Your Honor, Mr.
8 Milliman talked about that at the beginning of the deployment when
9 the S-6 who was authorized as administrators to get onto every
10 computer. They are the individuals authorized under the Reg for
11 doing that until Mr. Milliman said you don't understand, I'm the
12 DCGS-A FSE, I own these and it did not happen again. Your Honor, any
13 misunderstandings would have been resolved, at a minimum, in the
14 first 30 days. But it definitely would have been resolved, Your
15 Honor, by March 2010, when Private First Class Manning decided to
16 move Wget from NIPR, that he downloaded to NIPR onto his SIPR
17 computer. Even though they're analysts, Your Honor, the T-SCIF
18 testified that people needed their computers fixed even once they're
19 down range, they went to Milliman. Even Mr. Milliman testified that
20 PFC Manning went to him for certain aspects of what he needed done.
21 Your Honor, there's no evidence that PFC Manning used Wget for a
22 legitimate purpose. He only used it to commit the crimes he had been
23 charged with and he thought that was okay.

1 Your Honor, in reference to the AUP, the Defense is
2 absolutely right, the government has not produced a signed AUP and
3 the Court has already heard testimony on why that was. Captain
4 Cherepko stated after they redeployed that summer after Private First
5 Class Manning was first detained and in the summer of 2010 before
6 they redeployed, they destroyed all paperwork as part of their normal
7 business practice. They do not bring the AUPs back with them and
8 that was in the summer of 2010. He also testified, to the best of
9 his recollection, what the AUP said or did not say and the best of
10 his recollection was it said you are not authorized to install
11 programs with a .exe file type, executable programs. Your Honor, in
12 Captain Kay, Captain Kay is actually -- could be one of the best
13 witnesses, when you review your notes, on what was or wasn't
14 authorized and what to do. He even said, after just being there for
15 3 weeks, that if you needed something with the computer done, you
16 went to Mr. Milliman.

17 Your Honor, now the global address list book, the theft,
18 Specification 16. There was no legitimate reason to download the
19 GAL. According to Chief Nixon, if you download E-mail addresses, the
20 network is down, you can't send E-mails anyway. You have to have the
21 network working. The excuse, Your Honor, that PFC Manning download
22 GAL just to see if he could do it, it honestly, doesn't make sense
23 and there is no evidence to support that. Why would one see if they

1 can download the GAL on their NIPR computer and then move it to over
2 to their personal computer. If you're simply trying to test your own
3 skills which, again, the government contends is not authorized. But
4 even if you were to believe that, Your Honor, there would be no
5 legitimate reason to take all of that PII of 74,000 individuals and
6 move it to your personal computer. That, Your Honor, was the same MO
7 that Private First Class Manning followed when he took all the
8 classified information from SIPRNET. The only evidence the
9 government doesn't have, which is why it's not charged, is that he
10 transmitted it to WikiLeaks. Private First Class Manning even
11 understood how spear phishing is a threat. The government is not
12 contending that spear phishing occurred based off of these E-mails
13 being on Private First Class Manning's computer. But he knew,
14 through the Lamo chats, what spear phishing was and the dangers with
15 spear phishing, such a unique term, yet he took the E-mails from NIPR
16 and put them on his personal computer.

17 As far as the evaluation, Your Honor, there's one other
18 piece of the evaluation just to highlight. Chief Nixon, Your Honor,
19 testified about the CAL for the GAL, the C-A-L, Your Honor, the
20 client access license. This is the required Microsoft office license
21 that the United States Army pays per user when you build an E-mail
22 account for them and each CAL, he testified costs the Army between
23 \$35.00 and \$65.00 per user. Now, Your Honor, he also testified that

1 it's also based off each computer. But just users alone, Your Honor,
2 74,000 user E-mails and a CAL for each one, well, that's well over
3 \$1,000.00, Your Honor.

4 MJ: Well, let's go back to my old order there. We were talking
5 about the users were not prohibited from using the GAL, right? Is
6 that proper evaluation based on my order, I don't think so.

7 TC[MAJ FEIN]: Yes, ma'am. Could I have a moment, Your Honor?

8 MJ: Yes.

9 [There was a brief pause while the trial counsel reviewed documents
10 at counsel table.]

11 TC[MAJ FEIN]: May I have an in-place recess?

12 MJ: Yes.

13 [There was a brief pause while the trial counsel reviewed documents
14 at counsel table.]

15 TC[MAJ FEIN]: Specifically, Your Honor, Page 8 of your order,
16 the Court held that the cost of creating the information in the
17 charged database or records is proper evidence, the cost of creation.
18 Chief Nixon testified, Your Honor, that the CAL, the client access
19 license, had to be purchased in order to create this account to
20 receive it. That's specifically what it's for. You cannot have an
21 E-mail account without a CAL.

22 MJ: Major Fein, I'll allow you to do the input, the data entry
23 and all of that, but not the CALs.

1 TC[MAJ FEIN]: Yes, ma'am. Your Honor, from the Defense's
2 closing argument, it appears that the Defense essentially wants to
3 shift blame to other people. First, that's pretty evident when it's
4 apparently the State Department's fault that they didn't have more
5 security on a SIPRNET computer system, a SIPRNET where everyone has
6 to have a security clearance, sign up for a user account and have
7 access to it when he stole their database because they put their info
8 on the SIPRNET without additional security measures or it was the
9 unit's fault because PFC Manning used Wget because they had movies,
10 music and mIRC Chat. So he was able to use Wget. Your Honor, we --
11 at least the United States Army, live in a system based off trust,
12 individual responsibility. That's true with the non-disclosure
13 agreements and it's true for Mr. Weaver's testimony. Mr. Weaver
14 testifying that the Army regulation and the AUPs can't cover the
15 entire -- the entire world in scope of what can and cannot happen.
16 It's done on a broad -- well, as detailed as possible without having
17 be impermissible for being able to use an information system and
18 Private First Class Manning knew this, Your Honor. He knew the
19 weaknesses in the system and he knew how to penetrate those weakness.
20 Those are his own words, how to penetrate our systems. He admitted
21 to taking even more cautious measures with this information when he
22 chatted with Adrian Lamo. He admitted to penetrating quote, Your
23 Honor, "Penetrating U.S. classified networks, transferring that data

1 from those networks over the air gap onto commercial networks,
2 sorting the data, compressing and encrypting it". With Adrian Lamo,
3 he said I have been penetrating, he wrote, star.smil.mil networks for
4 over a year. His words, Your Honor. These aren't the words of a
5 well-intentioned or naive Soldier. This is a Soldier that knew
6 exactly what he was doing was against the rules and against his oath
7 as a Soldier and especially against his nondisclosure agreement, his
8 understanding -- his understanding of how to handle classified
9 information the access that this government gave him on smil.mil
10 networks, the Secret networks. He had been penetrating them for over
11 a year as well as sgov.gov. So, not just the military networks, the
12 general U.S. government networks. He says "I've created a massive
13 mess and no one has a clue because 95 percent of their efforts are
14 on physical security of classified networks and managing OPSEC,
15 unclassified networks." Your Honor, all that's on Page 8,
16 Prosecution Exhibit 30, Page 8.

17 Your Honor, the United States agrees with the Defense. You
18 should read the entire chat logs from front to back. What you'll see
19 from reading that is these are the types of terms when he's
20 explaining his actions of what he was doing. This is the type of
21 activities of one who has a general evil intent and not well
22 intentioned. "Everyone just sat on their work stations watching
23 music videos, car chases, buildings exploding and running more stuff

INSTRUCTIONS FOR PREPARING AND ARRANGING RECORD OF TRIAL

USE OF FORM - Use this form and MCM, 1984, Appendix 14, will be used by the trial counsel and the reporter as a guide to the preparation of the record of trial in general and special court-martial cases in which a verbatim record is prepared. Air Force uses this form and departmental instructions as a guide to the preparation of the record of trial in general and special court-martial cases in which a summarized record is authorized. Army and Navy use DD Form 491 for records of trial in general and special court-martial cases in which a summarized record is authorized. Inapplicable words of the printed text will be deleted.

COPIES - See MCM, 1984, RCM 1103(g). The convening authority may direct the preparation of additional copies.

ARRANGEMENT - When forwarded to the appropriate Judge Advocate General or for judge advocate review pursuant to Article 64(a), the record will be arranged and bound with allied papers in the sequence indicated below. Trial counsel is responsible for arranging the record as indicated, except that items 6, 7, and 15e will be inserted by the convening or reviewing authority, as appropriate, and items 10 and 14 will be inserted by either trial counsel or the convening or reviewing authority, whichever has custody of them.

1. Front cover and inside front cover (chronology sheet) of DD Form 490.
2. Judge advocate's review pursuant to Article 64(a), if any.
3. Request of accused for appellate defense counsel, or waiver/withdrawal of appellate rights, if applicable.
4. Briefs of counsel submitted after trial, if any (Article 38(c)).
5. DD Form 494, "Court-Martial Data Sheet."
6. Court-martial orders promulgating the result of trial as to each accused, in 10 copies when the record is verbatim and in 4 copies when it is summarized.
7. When required, signed recommendation of staff judge advocate or legal officer, in duplicate, together with all clemency papers, including clemency recommendations by court members.

8. Matters submitted by the accused pursuant to Article 60 (MCM, 1984, RCM 1105).
9. DD Form 458, "Charge Sheet" (unless included at the point of arraignment in the record).
10. Congressional inquiries and replies, if any.
11. DD Form 457, "Investigating Officer's Report," pursuant to Article 32, if such investigation was conducted, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.
12. Advice of staff judge advocate or legal officer, when prepared pursuant to Article 34 or otherwise.
13. Requests by counsel and action of the convening authority taken thereon (e.g., requests concerning delay, witnesses and depositions).
14. Records of former trials.
15. Record of trial in the following order:
 - a. Errata sheet, if any.
 - b. Index sheet with reverse side containing receipt of accused or defense counsel for copy of record or certificate in lieu of receipt.
 - c. Record of proceedings in court, including Article 39(a) sessions, if any.
 - d. Authentication sheet, followed by certificate of correction, if any.
 - e. Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.
 - f. Exhibits admitted in evidence.
 - g. Exhibits not received in evidence. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.
 - h. Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel submitted at trial.